

BEFORE THE
ILLINOIS COMMERCE COMMISSION

IN THE MATTER OF:)
)
NORTH SHORE GAS COMPANY,)
)
Proposed general rate)
increase for gas)
distribution service) No. 12-0511
(Tariffs filed)
July 31, 2012)) No. 12-0512
)
THE PEOPLES GAS LIGHT AND)
COKE COMPANY,)
)
Proposed general rate)
increase for gas)
distribution services)
(Tariffs filed)
July 31, 2012))

Chicago, Illinois
February 5, 2013

Met, pursuant to adjournment, at 10:00 a.m.,
in Conference Room MHR, 160 North LaSalle Street,
Chicago, Illinois.

BEFORE :

Mr. Glennon P. Dolan, Administrative Law Judge

Ms. Sonya J. Teague, Administrative Law Judge

1 APPEARANCES:

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20 for Peoples Gas/North Shore Gas Company;

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11 for the City of Chicago;

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14 MR. THEODORE T. EIDUKAS

15 MR. BRADLY D. JACKSON

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	AG Cross Exhibits 6, 7, 8	Page 191
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11	23.3P, NS-PGL Exh. 23.4 &	
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1 JUDGE TEAGUE: Pursuant to the direction of the
2 Illinois Commerce Commission, we now call docket
3 Nos. 12-0511 and 12-0512, North Shore and Peoples Gas
4 Light and Coke Company. These matters concern
5 proposed general increases in rates for gas services.

6 Would the parties please enter their
7 appearances for the record?

8 MS. PALMER: Appearing on behalf of the staff
9 for the Illinois Commerce Commission, John Feeley,
10 Jessica Cardoni, Nicole Luckey, and Angelique Palmer,
11 160 North LaSalle Street, Suite C-800, Chicago,
12 Illinois 60601.

13 MR. O'BRIEN: Appearing on behalf of the People
14 of the State of Illinois, Karen Lusson, L-U-S-S-O-N;
15 Timothy O'Brien, Office of the Illinois Attorney
16 General, 100 West Randolph, Floor 11, Chicago,
17 Illinois 60601.

18 MR. REDDICK: Appearing for the City of
19 Chicago, Conrad R. Reddick, 1015 Crest Street,
20 Wheaton, Illinois 60189, and I'd also like to enter
21 the appearance of Diane Pezanoski, P-E-Z-A-N-O-S-K-I,
22 deputy corporation counsel, 30 North LaSalle Street,

1 Suite 1400, Chicago 60602.

2 MR. TOWNSEND: On behalf of Interstate Gas
3 Supply of Illinois, Inc., or IGS Energy, the Law Firm
4 of Quarles, Q-U-A-R-L-E-S, & Brady, B-R-A-D-Y, by
5 Christopher J. Townsend and Christopher N. Skey, and
6 Adam T. Margolin, M-A-R-G-O-L-I-N, 300 North LaSalle,
7 Chicago, Illinois 60654.

8 MS. SODERNA: On behalf of the Citizens Utility
9 Board, Christie Hicks and Julie Soderna, 309 West
10 Washington, Suite 800, Chicago, Illinois 60608.

11 MS. KLYASHEFF: Appearing for North Shore Gas
12 Company and Peoples Gas Light and Coke Company, Mary
13 Klyasheff, 130 East Randolph, Chicago, Illinois
14 60601.

15 MS. SCARSELLA: Appearing on behalf of Peoples
16 Gas and North Shore, Carla Scarsella; that's
17 S-C-A-R-S-E-L-L-A, and John Ratnaswamy; that's
18 spelled R-A-T-N-A-S-W-A-M-Y, of the Law Firm of
19 Rooney, Rippie & Ratnaswamy, LLC. Rooney is spelled
20 R-O-O-N-E-Y, and Rippie is spelled R-I-P-P-I-E. The
21 address is 350 West Hubbard Street, Suite 600, 60654.

22 MR. EIDUKAS: Appearing on behalf of the

1 Peoples Gas light and Coke Company and North Shore
2 Gas Company, Theodore T. Eidukas, E-I-D-U-K-A-S, and
3 Bradly D. Jackson, of the Law Firm of Foley and
4 Lardner, LLP. Address is 321 North Clark Street,
5 Suite 2800 Chicago, Illinois 60654.

6 JUDGE TEAGUE: Are there any other appearances
7 for today? Let the record reflect that there are no
8 more appearances.

9 We can start with our first witness
10 for today.

11 MS. SCARSELLA: Peoples Gas calls Phil Hayes.

12 (Witness sworn.)

13 PHILLIP M. HAYES,
14 called as a witness herein, having been first duly
15 sworn, was examined and testified as follows:

16 DIRECT-EXAMINATION

17 BY MS. SCARSELLA:

18 Q. Mr. Hayes, can you state your name and
19 spell your last name for the record?

20 A. Phillip M. Hayes, H-A-Y-E-S.

21 Q. Who is your employer, and what is your
22 business address?

1 A. I'm employed by Integrys Business
2 Solutions, part of Peoples Gas Light and Coke.
3 Address is 130 East Randolph Street, Chicago,
4 Illinois 60601.

5 Q. What's your position?

6 A. My position is Director of Project
7 Management.

8 Q. Before you is a document that's identified
9 as PGL Exhibit 14.0, and it's entitled the Direct
10 Testimony of Phillip M. Hayes. Was this document
11 prepared by you or under your direction and control?

12 A. Yes, it was.

13 Q. Do you have any additions or corrections to
14 this document?

15 A. I do not.

16 Q. Subject to any revisions you made in
17 subsequent testimony, is everything in your direct
18 testimony true and correct to the best of your
19 knowledge?

20 A. Yes, it is.

21 Q. If I were to ask you the same questions
22 today, would your answers be the same?

1 A. Yes, they would.

2 Q. Also before you marked for identification
3 purposes is NS-PGL Exhibit 21.0 with the attachment
4 21.1, and that's entitled the Supplemental Direct
5 Testimony of Phillip M. Hayes. Was this document
6 prepared by you or under your direction and control?

7 A. Yes, it was.

8 Q. Do you have any additions or corrections to
9 this document?

10 A. No, I do not.

11 Q. Subject to any revisions made in subsequent
12 testimony is everything in your supplemental direct
13 testimony true and correct to the best of your
14 knowledge?

15 A. Yes, it is.

16 Q. If I were to ask you the same questions
17 today as set forth in your supplemental direct
18 testimony, would your answers be the same?

19 A. Yes, they would.

20 Q. Also before you marked for identification
21 purposes is NS-PGL Exhibit 34.0 with a confidential
22 and public version of the rebuttal testimony with

1 attachments 34.1 and 34.5. This document is entitled
2 Rebuttal Testimony of Phillip M. Hayes. Was this
3 document prepared by you or under your direction and
4 control?

5 A. Yes, it was.

6 Q. Do you have any additions or corrections to
7 this document?

8 A. No, I do not.

9 Q. Subject to the revisions made -- any
10 revisions in your surrebuttal testimony, is
11 everything in your rebuttal testimony true and
12 correct to the best of your knowledge?

13 A. Yes, it is.

14 Q. If I were to ask you the same questions as
15 set forth in your rebuttal testimony, would your
16 answers be the same today?

17 A. Yes, they would.

18 Q. Also before you is what is marked for
19 identification purposes NS-PGL Exhibit 49.0
20 corrected. There is a confidential and public
21 version of this document. Attached to it is NS-PGL
22 49.1 through 49.10. I note for the record that

1 NS-PGL Exhibit 49.7 there is both a confidential and
2 public version of that attachment. This document is
3 entitled The Corrected Surrebuttal Testimony of
4 Phillip M. Hayes. Was this document prepared by you
5 or under your direction and control?

6 A. Yes, it was.

7 Q. Do you have any additions or corrections to
8 this document?

9 A. No, I do not.

10 Q. Is your surrebuttal testimony true and
11 correct to the best of your knowledge?

12 A. Yes, it is.

13 Q. If I were to ask you the same questions as
14 set forth in your surrebuttal testimony, would your
15 answers be the same?

16 A. Yes, they would.

17 MS. SCARSELLA: Your Honor, at this time, we'd
18 like to move into the record PGL Exhibit 14.0, NS-PGL
19 Exhibit 21.0 and 21.1, NS-PGL Exhibit 34.0, which is
20 both confidential and public, with its attachments
21 34.1, 34.2., 34.3, 34.4, and 34.5, and NS-PGL Exhibit
22 49.0 corrected, which also has a confidential and

1 public version with attachments 49.1, 49.2, 49.3,
2 49.4, 49.5, 49.6, 49.7, which is both confidential
3 and public, and 49.8, 49.9, and 49.10.

4 JUDGE TEAGUE: Are there any objections to the
5 admission of these exhibit?

6 (No response.)

7 JUDGE TEAGUE: Then the following exhibits are
8 admitted into evidence, PGL Exhibit 14.0, NS-PGL
9 Exhibit 21.0, 21.1, and NS-PGL Exhibit 34.0,
10 confidential and public version, 34.1 through 34.5,
11 NS-PGL Exhibit 49.0, corrected, confidential and
12 public version, and Exhibits 49.1 through 49.10,
13 noting that Exhibit 49.7 is a confidential and a
14 public version.

15 (The aforesaid Exhibits were
16 admitted into evidence.)

17 MS. SCARSELLA: Your Honor, Mr. Hayes is
18 entered for cross-examination.

19 JUDGE TEAGUE: Please proceed.

20 CROSS-EXAMINATION

21 BY MR. O'BRIEN:

22 Q. Good morning, Mr. Hayes. My name is Tim

1 O'Brien, and I am with the Attorney General's Office.
2 I hopefully have just a couple minutes worth of cross
3 for you.

4 Before I begin, I'm going to start
5 with Construction Work In Progress and the
6 Accelerated Main Replacement Program. So I'm going
7 to be using the acronyms CWIP and AMRP. You do
8 understand what I'm referring to when I say those?

9 A. Yes, sir.

10 Q. I'd first like to direct you to your --
11 what is now your corrected surrebutal testimony at
12 Page 31, Line 701 and 702. There you testify that
13 for the new construction projects to be awarded in
14 2013 the detailed schedule has not been developed.
15 Did I read that correctly?

16 A. Yes, sir?

17 Q. I'd like to show you what I've marked as AG
18 Cross Exhibit -- I believe we're at 8.

19 JUDGE TEAGUE: Yes.

20 JUDGE DOLAN: It is 8.

21 BY MR. O'BRIEN:

22 Q. Now, in the company's response to the AG

1 data request, 14.08 -- now, in this data request,
2 Mr. Hayes, at the end of the first paragraph there,
3 it refers back to your rebuttal testimony, is that
4 correct?

5 A. Yes, it is.

6 Q. Okay. Now, in this response at the end of
7 the last line of the second paragraph, the company
8 states that quote, "It is expected that the projects
9 in CWIP between January and August 2013 will be in
10 service by December 2013 or early 2014".

11 Do you see that?

12 A. Yes, I do.

13 Q. Based on your testimony and on the
14 company's response to this data request, is it fair
15 to conclude then that some of the AMRP projects be
16 done before September 2013 will not be in service by
17 the end of 2013?

18 A. There is a likelihood, yes.

19 Q. To the extent you know, has the company yet
20 estimated when the 2013 projects begun in the last
21 four months of 2013 will be going into service?

22 A. Can you repeat? I didn't hear the last

1 part.

2 Q. To the extent you know, has the company yet
3 estimated when the 2013 projects begun in the last
4 four months of 2013 will be going into service?

5 A. No, we have not developed a detailed
6 schedule yet for 2013.

7 Q. I'm going to direct you back to your
8 surrebuttal testimony on the same page we were at
9 before at, at Line 709, and there you testified that
10 the amount of CWIP as of December 31st of 2012,
11 Peoples Gas is 52.9 million, and AMRP's contribution
12 to that balance is 38.1 million, correct?

13 A. Yes.

14 Q. On the next page -- well, leading over into
15 the next page, Line 710 to 711, you then state that
16 the CWIP balance has been reducing over the last
17 several months of 2012, correct?

18 A. Yes.

19 Q. Now, I'd like to refer you to your rebuttal
20 testimony at Page 14 at Lines 294 through 296, where
21 you testify that this cycle of work management and
22 work orders creates a bell-shaped curve of costs over

1 the course of the year as reflected in CWIP, correct?

2 A. Yes.

3 Q. And then at Lines 301 and 302, you testify
4 that CWIP related to AMRP costs will be lowest at the
5 beginning and end of the year, correct?

6 A. Yes.

7 Q. With all of this in mind then, the 38.1
8 million CWIP attributed to AMRP represents both the
9 low point at the end of 2012 and the low point at the
10 beginning of 2013?

11 A. Yes. The amount of CWIP at the end of 2012
12 would be the starting amount in 2013.

13 Q. Okay, and based on the bell-shaped curve of
14 costs over the course of the year as reflected in
15 CWIP, which we read that line earlier in your
16 testimony, the balance of CWIP could be expected to
17 increase as 2013 progresses until it reaches a peak
18 that is shifted towards the end of the year, correct?

19 A. As projects become placed in service, the
20 CWIP balance would go down. As new projects are
21 started, the CWIP balance would go up. So with the
22 amount of work that we planned, it would be estimated

1 that the amount of CWIP would indeed rise with the
2 start of the projects.

3 Q. Now, I would like to direct you to your
4 direct testimony at Lines 192 to 197.

5 Okay. At 192 -- Line 192 of your
6 direct testimony, you stated that as part of the
7 planned work for 2013 Peoples Gas will confirm the
8 selected areas for system upgrades in 2014 as
9 identified in the five-year plan. Peoples Gas
10 engineering staff will continue coordinating with the
11 city to identify additional public improvement
12 opportunities where other utilities planned
13 construction projects are occurring such that
14 synergies are identified. Did I read that correctly?

15 A. Yes, you did.

16 Q. Now, I would just quickly like to direct
17 you to Line 38 of your supplemental direct testimony.

18 A. What line is that?

19 Q. Line 38. There you testify that the items
20 which impacted the AMRP include construction work on
21 high-pressure steel main extension, compliance with
22 our cross-board specifications, resolution of Chicago

1 Department of Transportation, identify conflicts, and
2 unforeseen underground field conditions.

3 Generally speaking, is it fair to
4 categorize those four items that you listed
5 representing unforeseen costs?

6 A. Yes.

7 Q. I'd like to show what I've marked as AG
8 Cross Exhibit 9.

9 JUDGE DOLAN: Tim, we figured out that your
10 first one should have been 6, and this should be 7,
11 okay?

12 MR. O'BRIEN: Thank you, your Honor.

13 So this will be what I've marked as AG
14 Cross Exhibit 7.

15 BY MR. O'BRIEN:

16 Q. Mr. Hayes, I hand you what is the AG
17 response to AG data request 14.02. Have you seen
18 this response before?

19 A. Yes, I have.

20 Q. Was this prepared under your direction or
21 control?

22 A. Yes, it was.

1 Q. If I ask you the same questions that are on
2 this data request will your responses be the same
3 today?

4 A. Yes, they would.

5 Q. Finally, I'd like to hand you what will be
6 appropriately marked as AG Cross Exhibit 8 for
7 identification. Mr. Hayes, have you seen this
8 response before?

9 A. Yes, I have.

10 Q. And just to clarify for the record, this is
11 the company's response to AG data request 10.17.

12 Was this response marked under your --
13 prepared under your direction or control?

14 A. Yes, it was.

15 MR. O'BRIEN: Your Honor, if I may have just one
16 quick moment?

17 JUDGE DOLAN: Yes. Go off the record.

18 (Discussion off the record.)

19 JUDGE DOLAN: Back on the record.

20 In an effort to expedite the remainder
21 of our cross, the People would like to move in what
22 we'll mark as AG Cross Exhibit 9, which is a group

1 exhibit, and I will read off, as well as hand
2 everybody a copy of this.

3 And I apologize. Because of some
4 last-minute changes, we don't have a full and
5 complete copy. I will ensure that we get one of
6 those to you today. I will give you a copy of what
7 the People and the company have agreed to, and this
8 is a list.

9 AG Cross Exhibit 9 consists of Peoples
10 Gas responses to the following data requests: AG
11 10.15, AG 10.16, AG 10.18, AG 18.01, AG 18.03,
12 AG 18.05, AG 18.06, AG 18.08, AG 18.08 attach 01;
13 AG 18.11, AG 18.12, AG 18.13, AG 18.14; City 2.01,
14 City, 2.2, City 2.03, City 2.04, the City 2.05, and
15 and City 2.06.

16 And the People would move,
17 respectfully move, for admission AG Cross Exhibits 6,
18 7 and 8 and 9, with 9 being the Group Cross Exhibit.

19 JUDGE DOLAN: Any objections?

20 MS. SCARSELLA: No, Judge.

21 Your Honor, I just wanted to note for
22 the record that 18.08 actually contains two

1 attachments but only one attachment is being
2 submitted as part of the group exhibit.

3 JUDGE DOLAN: That's 18.08.

4 MS. SCARSELLA: It's part of the group exhibit.

5 JUDGE DOLAN: It's not listed 18.08.

6 MR. O'BRIEN: Sorry. Replace that one, and
7 then what I can do is I'll take this and just mark it
8 on my own. That way there's no confusion.

9 JUDGE DOLAN: We'll just add it; just keep
10 your, with an attachment.

11 MR. O'BRIEN: 18.08, attach 01. We'll file any
12 docket in its complete form.

13 JUDGE DOLAN: Now that we've cleared that up --

14 MS. SCARSELLA: I just want to note for the
15 record that 18.08 actually has two attachments, and
16 one is being included in the group exhibit;
17 otherwise, we have no objection.

18 JUDGE DOLAN: Subject to that then, AG Cross
19 Exhibit 6, 7, 8, and 9, which is a group exhibit,
20 will be admitted into the record.

21 (The aforesaid Exhibits were
22 admitted into evidence.)

1 MR. O'BRIEN: Thank you, your Honor.

2 People have no further questions.

3 JUDGE DOLAN: Mr. Reddick, do you have
4 questions?

5 CROSS-EXAMINATION

6 BY MR. REDDICK

7 Q. Good, Mr. Hayes. My name is Conrad
8 Reddick, and I represent the City of Chicago. I'd
9 like to turn first to your rebuttal testimony -- I'm
10 sorry, it's your direct testimony.

11 Exhibit 14, at Page 7. At Line 157,
12 you say: Most of Peoples Gas is cast iron and ductile
13 mains were installed from the 1860s through the
14 1960s. Over a long period of time, cast iron and
15 ductile iron pipes deteriorate as the pipe walls are
16 diminished through corrosion.

17 It is that process of deterioration
18 and corrosion something that gets progressively worse
19 over time if left unremedied?

20 A. Yes, it does.

21 Q. What sort of problems can be caused by
22 deteriorated or corroded pipe walls?

1 A. The pipe walls are soft and thin. Relative
2 motion from heating, the process of the ground
3 freezing and thawing will have a relative limit, and
4 that will have a tendency to weaken the joints and/or
5 weaken solid. Stress of the pipe has a tendency to
6 weaken or partially rupture over time.

7 Q. So the pipe could either rupture entirely
8 or leak?

9 A. Yes.

10 Q. And gas being flammable, leaks or ruptures
11 could involve a fire?

12 A. Yes.

13 Q. Or explosion?

14 A. Yes.

15 Q. And could pipes with deteriorated or
16 corroded walls be more easily damaged during
17 underground work by utilities?

18 A. That potential would exist.

19 Q. I'm sorry, I didn't hear you.

20 A. That potential would exist.

21 Q. Thank you.

22 The leaks possibly followed by a fire

1 or explosion would be dangerous to the public,
2 correct?

3 A. Yes, they would be.

4 Q. So you can understand the City of Chicago
5 has a public safety concern about the condition of
6 the pipes?

7 A. Yes.

8 Q. In 2012, Peoples gas curtailed some of its
9 planned replacements because of budget limitations,
10 is that correct?

11 A. To maintain the approved budget, we
12 curtailed in order to stay within the approved
13 budget.

14 Q. And am I correct that it is PGL's position
15 that future timely performance of the AMRP
16 replacement is contingent on what you called
17 "appropriate and timely recovery," end quote.

18 A. I believe that is my testimony, yes.

19 Q. So Peoples Gas's commitment to timely AMRP
20 construction is contingent on a certain level of
21 financial performance?

22 A. I would have to defer to Mr. Gene Schott

1 relative to the ongoing program.

2 Q. But your testimony is that you would need
3 appropriate and timely recovery to continue?

4 A. Yes. Beyond that, then my testimony
5 referred to further discussion would be by Mr. Jim
6 Schott in his testimony.

7 Q. Would delays in main replacement increase
8 the likelihood of issues or events related to
9 deteriorated or corroded pipe walls?

10 A. I think within the AMRP Program we go
11 through a process of understanding and identifying
12 and selecting those segments that may have the
13 highest risk. We have a main ranking index, which
14 goes through a systematic base of identifying those
15 mains which have the greater probability, and once we
16 obtain a certain ranking within the segment, those
17 are the ones that are targeted first for replacement.

18 Q. And are these problems that can be
19 associated with deteriorated work or corroded pipe
20 walls are the type that always permits Peoples Gas to
21 repair the pipeline before there is danger or harm to
22 the public?

1 A. I would say that a majority of the mains
2 that are being replaced would fall below the main
3 ranking index, which would suggest that we should be
4 replacing them. Some of those segments have been
5 identified as having the greatest probability or
6 highest ranking have been replaced, and subsequently,
7 as going through the program for the following
8 period, we will be reducing the cast iron main as a
9 main ranking index of zero, and a lot of them being
10 replaced today would have a main ranking index of
11 zero.

12 Q. But your answer is probabalistic. You
13 cannot say that Peoples Gas would catch every
14 corroded or deteriorated pipe wall before it causes a
15 problem?

16 A. With 100 percent absolutely certainty, no,
17 I don't think we would catch every one.

18 Q. So Peoples Gas is not really in a position
19 to assure Chicago residents that there will be no
20 danger to the public from delays in replacements of
21 deteriorated or corroded maintenance?

22 A. Could you repeat that?

1 Q. I said, so Peoples Gas is not in a position
2 to be able to ensure the public in Chicago that there
3 would be no danger or harm from corroded or
4 deteriorated mains?

5 A. In the absolute sense, no. They can't
6 provide that total guarantee. There's inherent risks
7 in any system.

8 Q. I would like to understand at what point
9 delays due to budget limitations or other reasons
10 would mean that the AMRP Program could not be
11 completed. Is there a maximum amount of work that
12 Peoples Gas can accomplish in a single year?

13 A. With no budget limitation, I don't believe
14 there could be. I don't think there would be a
15 limitation. Hypothetically, he could hire 50
16 contractors and have 50,000 workers working on it,
17 but it wouldn't be realistic. We'd never do that,
18 obviously, for various reasons.

19 Q. Some of them being you probably couldn't
20 get street permits to tear up the entire city at
21 one time?

22 A. We could go right down the list of all the

1 streets. We couldn't do that.

2 Q. Is it true that People Gas has not made a
3 commitment to continuing the AMRP after the 2013 test
4 year?

5 A. I think we provided discussion that we
6 would continue on under a 20-year program with caveat
7 that there would be appropriate and timely recovery
8 of those expenses.

9 Q. So that the record contains an explanation
10 of any conditions attached to Peoples Gas and AMRP,
11 can you explain how Peoples Gas will measure what you
12 call appropriate and timely recovery so that the AMRP
13 goes forward as scheduled?

14 A. I would not be in a position to comfortably
15 respond to that question.

16 Q. Is that another question for Mr. Schott?

17 A. I would defer to Mr. Schott, yes.

18 Q. We'll have to ask him. Thank you.

19 No further questions.

20 JUDGE DOLAN: Thank you. Any redirect?

21 MS. SCARSELLA: May we have a couple minutes.

22 JUDGE DOLAN: Yes. Off the record.

1 (Short recess had.)

2 MS. SCARSELLA: We do have a limited redirect,
3 your Honor.

4 JUDGE DOLAN: Proceed.

5 REDIRECT-EXAMINATION

6 BY MS. SCARSELLA:

7 Q. Mr. Hayes, you have before you AG Cross
8 Exhibit No. 8, which is Peoples Gas response to AG
9 7.78?

10 A. Yes, I do.

11 Q. Do you have any comments with regards to
12 that response?

13 A. Just would like to make a statement that
14 relative to the AG 10.17 we were requested to provide
15 an update to that response, and we did so under
16 AG 18.09.

17 Q. And can you give me a brief description of
18 the documents that were submitted in response? To
19 the best of your recollection, what was submitted in
20 response to 18.09?

21 A. By and large, it had discussions and
22 information relative to the planned work for 2013,

1 the amount of work we're carrying over from 2012
2 into 2013, the 2013 projects that were identified
3 early on, to the point where we even provided street
4 sequencing, the in and out, to and from, for all the
5 the streets that we'd be working on, discussions
6 between the city showing the full project listing and
7 other correspondence between the city and Peoples
8 Gas.

9 MS. SCARSELLA: Your Honor, I would like to
10 submit as NS-PGL Redirect Exhibit No. 2 Peoples Gas
11 response to AG 18.09. However, that response has
12 many attachments, and we don't have it with us. So
13 could we move it into the record or present it later
14 to be moved into the record once we have a full copy?

15 JUDGE DOLAN: Is there any objections?

16 MR. O'BRIEN: The People don't object so long
17 as we can ultimately verify and see the responses.

18 MS. SCARSELLA: Certainly.

19 JUDGE DOLAN: Subject to that, it will be
20 admitted. It was AG 18.09.

21 MS. SCARSELLA: Correct. It was the NS-PGL
22 Redirect Exhibit No. 2.

1 JUDGE DOLAN: PGL Redirect Exhibit No. 2 will
2 be admitted into the record.

3 (The aforesaid Exhibit was
4 admitted into evidence.)

5 MR. O'BRIEN: Your Honor, if I could just note,
6 will Mr. Hayes be available for any potential
7 redirect based on -- or I'm sorry, recross based on
8 the admission or potential admission of NS-PGL 2?

9 MS. SCARSELLA: We can certainly make Mr. Hayes
10 available.

11 MR. O'BRIEN: Thank you.

12 MS. SCARSELLA: That is it.

13 JUDGE DOLAN: Any recross?

14 MR. O'BRIEN: Not at this time, but the People
15 would reserve the right to recross Mr. Hayes based
16 upon our previous discussion.

17 JUDGE DOLAN: All right. You are excused then,
18 Mr. Hayes. Thank you.

19 (Witness excused.)

20

21

22

1 LISA GAST,
2 called as a witness herein, having been first duly
3 sworn, was examined and testified as follows:

4 DIRECT-EXAMINATION

5 BY MR. JACKSON:

6 Q. Ms. Gast, will you state your name and
7 spell your last name?

8 A. Lisa Gast, G-A, S as in Sam, T as in Tom.

9 JUDGE DOLAN: Ms. Gast, please raise your right
10 hand.

11 (Witness sworn.)

12 BY MR. JACKSON:

13 Q. Ms. Gast, will you have identify your
14 employer and business address?

15 A. Integrys Business Support, 700 North Adams,
16 Green Bay, Wisconsin 54307.

17 Q. What position do you hold with Integrys
18 Business Support?

19 A. I'm the Manager of National Planning and
20 Analysis.

21 Q. Ms. Gast, in connection with this
22 proceeding, did you prepare or have prepared at your

1 direction the following pieces of prefiled written
2 testimony, direct testimony marked NS Exhibit 2.0 and
3 PGL Exhibit 2.0, supplemental direct testimony marked
4 NS-PGL Exhibit 17.0, rebuttal testimony marked NS-PGL
5 Exhibit 23.0, and surrebuttal testimony marked NS-PGL
6 Exhibit 38.0.

7 A. Yes, I did.

8 Q. And do you have any additions or
9 corrections to any of those pieces of prefiled
10 written testimony?

11 A. No, I do not.

12 Q. Is that prefiled written testimony true and
13 correct to the best of your knowledge?

14 A. Yes, it is.

15 Q. If I were to ask you the questions
16 contained in those pieces of testimony today, would
17 your answers be the same?

18 A. Yes, they would.

19 Q. Also, in connection with your prefiled
20 direct testimony, did you also prepare or have
21 prepared at your direction the following exhibit
22 attachments, NS Exhibits 2.1 through 2.7, PGL

1 Exhibits 2.1 through 2.7, NS-PGL Exhibits 17.1N, as
2 in Nancy, and 17.2N, NS-PGL Exhibit 17.1P and 17.2P,
3 NS-PGL Exhibits 23.1N through 23.3N, NS-PGL Exhibits
4 23.1P through 23.3P, NS-PGL Exhibits 23.4 and 23.5,
5 and finally NS-PGL Exhibits 31.1N and 38.1P?

6 A. Yes.

7 Q. Do you have any corrections to any of those
8 exhibits?

9 A. No, I do not.

10 Q. Your Honor, as I seek the incorporation of
11 Ms. Gast's prefiled written testimony into the record
12 as I've read and seek the admission of the exhibits
13 that I've listed.

14 JUDGE DOLAN: Mr. Jackson, just to clarify, we
15 are seeing 23.5 as confidential and public, is that
16 correct?

17 MR. JACKSON: I'm sorry, which ones?

18 JUDGE DOLAN: NS-PGL 23.5, according to your
19 list here, as both confidential and public, is that
20 correct?

21 MR. JACKSON: Yes, I believe so.

22 JUDGE DOLAN: Subject to that, is there any

1 objections?

2 (No response.)

3 JUDGE DOLAN: Hearing none, then North Shore
4 Exhibits 2.0, along with North Shore Exhibits 2.1
5 through 2.7 and PGL Exhibit 2.0, along with PGL
6 Exhibits 2.1 through 2.7 will be admitted into the
7 the record. NS-PGL Exhibit 17.01, along with
8 Exhibits NS-PGL Exhibit 17.1N and 17.2N, along with
9 NS-PGL Exhibit 17.1P and 17.2P, and then NS-PGL
10 Exhibit 23.0, along with NS-PGL Exhibit 23.1N and
11 23.1P, NS-PGL Exhibit 23.2N and NS-PGL Exhibit 23.2P,
12 NS-PGL Exhibit 23.3N and NS-PGL Exhibit 23.3P, NS-PGL
13 Exhibit 23.4, and NS-PGL Exhibit 23.5, both
14 confidential and public, along with NS-PGL 38,
15 Exhibit 38.0 with 38.1N and 38.1P will be admitted
16 into the record.

17 (The aforesaid Exhibits were
18 admitted into evidence.)

19 MR. JACKSON: Thank you, your Honor, and the
20 witness is available for cross.

21

22

CROSS-EXAMINATION

BY MS. LUSSON:

Q. Good morning, Ms. Gast. My name is Karen Lusson, and I'm with the Attorney's General Office.

A. Good morning.

Q. Most of my questions will be dealing with your surrebuttal testimony.

A. Okay.

Q. If you could turn to Page 2 of your surrebuttal testimony?

A. I have that.

Q. At the bottom of that page, you mention or refer to Revised Schedule D calculations for both Peoples Gas and North Shore. Do you see that?

A. Yes, I do.

Q. Are the updated costs of capital amounts you sponsor set forth in your Exhibit 38.1P and 38.1N that you reference in that testimony?

A. Yes, they are.

Q. Now, if you could, take a look at your Exhibit 38.1P.

A. I got that.

1 Q. Is it correct that you recommend a 7.07
2 percent overall rate of return for Peoples Gas using
3 a 4.47 percent cost of long-term debt?

4 A. Yes.

5 Q. And that you also recommend a 1.26 percent
6 cost of short-term debt and a 10-percent return on
7 equity?

8 A. Yes.

9 Q. Now, when compared to the AG calculations
10 made by Mr. Brosch, if you can recall that, would you
11 agree that the cost of long-term debt Mr. Brosch has
12 recommended in his Exhibit 4.1 Schedule D of 4.46
13 percent is nearly the same as is now proposed by the
14 company?

15 A. If I recall correctly, his schedule refers
16 to a year-end -- no. I'm not sure. We're comparing
17 apples to apples, but the rates, themselves, are
18 similar. That I would agree with.

19 Q. My question was limited to his use of a
20 certain cost of long-term debt, and that being 4.46
21 percent, which is, would you agree, one-basis point
22 difference than the 4.47 percent cost of long-term

1 debt that you recommended, is that right?

2 A. Yes.

3 Q. And would you agree that the sole
4 difference in long-term debt costs is that you are
5 using a forecasted cost rate for new debt to be
6 issued in September? Putting aside the end of year
7 versus average rate basis issue, while Mr. Brosch is
8 assuming the costs will be unchanged from Peoples
9 Gas's most recent debt issuance in late 2012?

10 A. I believe that was the only difference.

11 Q. And with regard to cost of equity, is it
12 correct that the company proposes, as we mentioned
13 before, an REO, or return on equity of 10 percent,
14 while Mr. Brosch is recommending no change from the
15 9.45 percent return on equity approved by the
16 commission in the company's last rate case about a
17 year ago?

18 A. Yes.

19 Q. Now, turning to Page 4 of your surrebuttal
20 testimony, at Line 6 -- actually, it's Page 3, the
21 bottom of Page 3, Line 60.

22 A. I have that.

1 Q. There you challenge staff witness McNally's
2 use of historical rates to estimate the utilities,
3 cost of long-term and short-term debt. Do you see
4 that testimony?

5 A. Yes, I do.

6 Q. Would you agree that Mr. Brosch has
7 proposed using actual data to quantify long-term debt
8 costs?

9 A. Can you repeat the question?

10 Q. Would you agree that Mr. Brosch has
11 proposed using actual data to quantify long-term debt
12 costs?

13 A. Mr. Brosch has proposed using actual data
14 for debts that were issued prior to September of 2012
15 applying to an issue that hasn't yet occurred
16 forecasted to be heard September of '13.

17 Q. But to the extent he's recommending using
18 actual data, you would agree with that
19 characterization, the company's actual debt issue and
20 experience?

21 A. I guess you could characterize it that way.

22 Q. Now, looking at Line 61, you note that

1 given the proximity of staff's historical rate to the
2 the utilities forecasted rates and in order to reduce
3 a number of contested issues in this case, the
4 utilities will accept Mr. McNally's proposed costs of
5 long-term debt and short-term debt and the capital
6 structured ratios. Do you see that?

7 A. Yes, I do.

8 Q. Is this because the company's updated
9 estimates of debt cost rates have declined and are
10 now nearly the same as recent actual costs of newly
11 issued debt?

12 A. The forecasted rate that we show for May of
13 2013 was 4.2 percent, and McNally --

14 Q. Ms. Gast, you're going to have to repeat
15 your answer, if you could. Do you want me to have
16 the question read back?

17 A. Sure.

18 Q. The question I asked was -- again,
19 referring to that testimony where you discussed your
20 acceptance of the staff historical rate, do you
21 remember that, at Line 61?

22 A. Yes, I do.

1 Q. And did the company take this position: Is
2 it correct that because the company's updated
3 estimates of debt cost rates have declined and are
4 now nearly the same as the recent actual costs of
5 newly issued debt endorsed by Mr. McNally?

6 A. For the North Shore May forecasted issue,
7 that's true.

8 Q. And how about with respect to Peoples Gas,
9 have the debt -- the updated estimates of debt cost
10 rates declined?

11 A. They're declined, but they're not as low as
12 the current historical rate.

13 Q. You say they're not as low as the current
14 historical rate. I'm confused by when you say
15 current historical rate. What are you referring to
16 there?

17 A. The spot rate that Mr. McNally used in his
18 rebuttal.

19 Q. Now, turning to Page 4 of your surrebuttal
20 testimony, Line 68, you note that Peoples will be
21 filing an informational statement with the commission
22 for permission to refinance it's Series KK issue. Do

1 you see that?

2 A. Yes.

3 Q. And as I understand your testimony, the
4 company expects that the refinancing will be
5 completed by April 1st of 2013; is that also true?

6 A. Yes.

7 Q. And you're proposing that the cost of
8 long-term debt be updated prior to the final order in
9 this proceeding to reflect the new interest cost of
10 this debt issue and the amortization or related
11 refinancing costs; is that your proposal?

12 A. Yes, it is.

13 Q. Do you expect the refinancing of Series KK
14 to produce interest cost savings to the company
15 because current interest rates are lower than
16 historical cost rates?

17 A. Yes.

18 Q. Now, if you could turn to your
19 Exhibit 38.1N, which is the exhibit for North Shore.

20 A. Sorry, I turned too far.

21 Q. Take your time.

22 A. I have it.

1 Q. If we look first at 38.1 for North Shore,
2 is it correct that you recommend a 7.12 percent
3 overall rate of return for Peoples Gas using a
4 4.64 percent cost of long-term debt?

5 MR. JACKSON: Did you mean North Shore?

6 MS. LUSSON: I'm sorry. Did I say Peoples Gas?
7 I meant North Shore. Thank you.

8 THE WITNESS: Was that the entire question?

9 BY MS. LUSSON:

10 Q. Yeah, I'm trying to break it up.

11 A. Yes, I would agree.

12 Q. And that 4.64 percent also includes a
13 1.8-percent cost of short-term debt and a 10-percent
14 return on equity?

15 A. Given the 7.12 percent included?

16 Q. Yes.

17 A. Okay.

18 Q. Is that correct?

19 A. Yes.

20 Q. And again, would you agree that the cost of
21 long-term debt that Mr. Brosch has recommended in AG
22 Exhibit 4.2 Schedule D of 4.60 percent is again

1 nearly the same as the company is now proposing for
2 North Shore, and that is, there's a four-basis-point
3 difference?

4 A. Yes, I would agree.

5 Q. Again, putting aside the difference in
6 opinion on the end of the test year versus average
7 test year at issue, with regard to the long-term debt
8 cost, would you agree that for North Shore the sole
9 difference between the two of you is that you are
10 using a forecasted cost rate for new debt to be
11 issued in May, while Mr. Brosch is assuming the costs
12 will be unchanged from Peoples Gas -- I'm sorry --
13 from North Shore's most recent debt issuance in late
14 2012?

15 A. I think the way you originally stated it
16 was actually correct.

17 Q. From Peoples Gas -- I'm sorry. So when I
18 said North Shore's most recent debt issues, I meant
19 to say Peoples Gas, is that correct?

20 A. Yes.

21 Q. Okay, and again, with regard to the cost of
22 equity for North Shore, is it correct that the

1 company's proposed an ROE of 10 percent, while
2 Mr. Brosch is recommending no change from the 9.45
3 ROE approved by the commission in the company's last
4 rate cases?

5 A. Yes.

6 Q. If you could, if the person that was with
7 you could hand you the cross exhibit that we
8 forwarded earlier.

9 A. I have the envelope. Okay. I have the
10 exhibits.

11 Q. Ms. Gast, do you have before you what I'm
12 marking as AG Cross Exhibit 10?

13 JUDGE DOLAN: 9.

14 MS. LUSSON: 9. So the group exhibit is not
15 counting as a cross exhibit?

16 JUDGE DOLAN: You're right.

17 BY MS. LUSSON:

18 Q. Ms. Gast, first, can you confirm that this
19 is your work paper supplied to the parties after the
20 filing of your rebuttal testimony?

21 A. Yes, it is.

22 Q. And let me also confirm with you that the

1 the coupon rates and dates when the date is scheduled
2 to mature that are listed are herein are accurate and
3 reflect the company's actual borrowing experience?

4 A. We corrected this with a data response for
5 Line 12, the new issue.

6 Q. Can you indicate orally what that new issue
7 rate is? Are you talking about the 4.05 percent that
8 appears in the work paper?

9 A. Right. It should have read 3.98 percent.

10 Q. Thank you for that correction.

11 Now, at the time you submitted this
12 work paper and at the time of your filing of your
13 rebuttal testimony, you were sponsoring a cost rate
14 of -- of long-term debt of 4.52 percent for Peoples
15 Gas prior to adopting staff valued at the
16 surrebuttal, is that right?

17 A. Yes, it is.

18 Q. If you could turn to Line 6 -- I'm sorry.
19 Reference Line 6 of this paper, the series SS that's
20 listed there.

21 A. All right.

22 Q. Would you agree that the \$45 million of

1 currently outstanding Series SS bonds have a coupon
2 rate of 7.00 percent?

3 A. Yes, they do.

4 Q. And those are scheduled to mature on
5 November 1st of 2013?

6 A. That's correct.

7 Q. Now, looking at Lines 12 and 13, two new
8 issuance of long-term debt are projected to occur at
9 cost rates. You've indicated one being the new issue
10 being -- that was issued on November 1st of 2012 was
11 issued at a rate of 3.98 percent, and the other,
12 which is scheduled to be issued on September 1, 2013,
13 at a rate of 4.45 percent, is that correct?

14 A. Yes, it is.

15 Q. And is it fair to say that the new issue of
16 4.45 percent scheduled for September 1, 2013, is an
17 estimated amount?

18 A. Yes, it is.

19 Q. Now, if Peoples Gas was calculating its
20 costs of long-term debt at year end, rather than 2013
21 average levels, would you agree that all of the
22 Series SS debt at 7 percent cost would be gone and

1 all of the new issue debt on Lines 12 and 13 would be
2 treated as if outstanding for the entire year?

3 A. Could you repeat that, please?

4 Q. Sure. If Peoples Gas was calculating its
5 cost of long-term debt at year end rather than 2013
6 average levels, would you agree that all of the
7 Series SS debt at 7 percent cost would be gone, and
8 all of the new issue debt on Lines 12 and 13 would be
9 treated as if outstanding for the entire year?

10 A. Yes.

11 Q. And in the company's calculations at
12 Line 13, it says 200 million of new issue debt at
13 4.45 percent, included in the carrying value column,
14 and only 66.1 million. Do you see that?

15 A. I have a 66.7 million -- no, yes. 66.1
16 million.

17 Q. Is that because -- is it listed that way
18 because this lower cost new debt is treated as if
19 only outstanding for four months?

20 A. Correct. We're calculating the average
21 cost.

22 Q. And so to do the math, 4/12ths of 200

1 million is only 66.1 million?

2 A. I believe so.

3 Q. Now, Line 6 is the 45 million of the Series
4 SS debt at the 7 percent cost rate assigned a
5 carrying value of 37.4 million. Do you see that?

6 A. Yes, I do.

7 Q. Is that because it's recognized as
8 outstanding for 10 out of 12 months during the test
9 year, even though it would be completely gone at
10 test-year end?

11 A. That's correct. In the average
12 calculation, that's the way it showed up.

13 Q. Given this data, would you agree that an
14 annualized cost of long-term debt at test-year end
15 would be lower than the average cost rate for
16 long-term debt because of planned refinancing within
17 the year?

18 A. Could you say that one more time?

19 Q. Sure. Given this data that we just
20 referenced here at Line 6 and Line 13, would you
21 agree that an annualized cost of long-term debt at
22 test-year end would be lower than the average cost

1 rate for long-term debt because of planned
2 refinancings within the year?

3 A. Yes.

4 MS. LUSSON: If I could just have a moment?

5 (Brief Pause.)

6 MS. LUSSON: Thank you, Ms. Gast. That's all
7 the questions I have.

8 JUDGE DOLAN: Any redirect?

9 MR. JACKSON: Just a little bit, your Honor.

10 REDIRECT-EXAMINATION

11 BY MR. JACKSON:

12 Q. Ms. Gast, let me pick up on the discussion
13 that you were having with Ms. Lusson. If you used a
14 year-end convention for long-term debt cost and you
15 assume that the Series SS was gone for the entire
16 test year for 2013 and you assume that the new issue
17 on September 1st of 2013 was in place for the entire
18 year, would that present an accurate reflection of
19 the company's long-term debt cost for the test year?

20 A. No, it would not.

21 Q. Why not?

22 A. A little more accurate representation is

1 using the average cost because it reflects the amount
2 of time over the test period that that -- either the
3 new issue or the maturing issues are in place, and
4 the costs are being incurred by the company.

5 Q. Now, Ms. Lusson asked you about -- I think
6 your answer was, in fact, that in this case if you
7 made that assumption and you used the year-end
8 convention that the long-term debt costs would be
9 lower than if you use an average over the year,
10 correct?

11 A. Correct.

12 Q. Now, if rates were predicted to be
13 increasing to levels above debt that was being
14 retired during the test year, the opposite would be
15 true, correct; you would end up with a higher cost?

16 A. That's correct.

17 Q. Ms. Lusson asked you about Mr. Brosch's
18 reliance on actual long-term debt cost. Do you
19 recall that question?

20 A. Yes, I do.

21 Q. And if I ask you to turn to Page 3 of your
22 surrebuttal --

1 A. I have it.

2 Q. I think she was asking about Line 60 where
3 you're talking about Mr. McNally's use of historical
4 rates. Do you see that?

5 A. Yes, I do.

6 Q. Would you apply the term historical to the
7 data that Mr. Brosch is relying on as well?

8 A. Yes, I would.

9 MR. JACKSON: Thank you. That's all I have.

10 JUDGE DOLAN: Recross?

11 MS. LUSSON: Just a couple questions.

12 RE CROSS-EXAMINATION

13 BY MS. LUSSON:

14 Q. Ms. Gast, in response to one of
15 Mr. Jackson's questions, you indicated with respect
16 to the questions -- or the issues we talked about,
17 about the calculations at Lines 6 and 13, that you
18 did not believe that it reflects the test period. Do
19 you recall that response to Mr. Jackson?

20 A. The way our schedule represents the data,
21 it is reflected.

22 Q. And when you use the phrase "reflects the

1 test period," what is your understanding of the test
2 period? What are you referring to there?

3 A. 2013.

4 Q. You're limiting it to the calendar year
5 2013, is that correct?

6 A. Correct.

7 Q. And are you referencing -- in making that
8 statement, are you referencing any period outside of
9 the test year into the future in terms of the time
10 the rates will be in effect?

11 A. No.

12 Q. And finally, with respect to Mr. Jackson's
13 last question about the characterization of
14 Mr. Brosch's recommended debt cost rates as
15 historical, you would agree those were also -- it
16 would be also accurate to call them actual
17 experiences for the company, is that right?

18 A. Actual for PGL, September of 2012.

19 MS. LUSSON: Thank you.

20 Your Honor, we would also move for the
21 admission of AG Cross Exhibit 10.

22 JUDGE DOLAN: This isn't in the record already?

1 MS. LUSSON: No. It's a work paper, although
2 the work paper --

3 JUDGE DOLAN: That's fine. Okay. No
4 objection?

5 MR. JACKSON: No objection.

6 JUDGE DOLAN: Then AG Cross Exhibit 10 will be
7 admitted into the record.

8 (The aforesaid Exhibit was
9 admitted into evidence.)

10 JUDGE DOLAN: Thank you, Ms. Gast.

11 THE WITNESS: Thank you.

12 MS. LUSSON: Thank you, Ms. Gast.

13 (Witness excused.)

14 JUDGE DOLAN: We'll go off the record.

15 (Short recess had.)

16 JUDGE DOLAN: Back on the record.

17

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22

1 KEVIN KUSE,
2 called as a witness herein, having been first duly
3 sworn, was examined and testified as follows:

4 EXAMINATION

5 BY MR. JACKSON:

6 Q. Mr. Kuse, will you identify yourself for
7 the record and spell your last name?

8 A. My name is Kevin Kuse, K-U-S-E.

9 Q. Mr. Kuse, who is your employer, and what is
10 your business address?

11 A. I'm employed by Integrys Business Support.
12 My business address is 700 North Adams Street,
13 Green Bay, Wisconsin 54307.

14 Q. And what your position with IBS?

15 A. I am a senior load forecaster.

16 Q. In connection with this proceeding, did you
17 prepare or have prepared at your direction prefiled
18 written direct testimony marked NS Exhibit 2.0?

19 A. Yes.

20 Q. Did you also prepare or have prepared at
21 your direction prefiled direct testimony marked PGL
22 Exhibit 2.0?

1 A. Yes. Excuse me. Do you mean 4.0?

2 Q. Yeah. My list is wrong. I apologize.

3 The direct testimony should be marked
4 NS Exhibit 4.0 and PGL 4.0.

5 And did you also have prepared at your
6 direction prefiled written surrebuttal testimony
7 marked NS-PGL Exhibit 40.0?

8 A. Yes.

9 Q. And in connection with that piece of
10 prefiled testimony, did you also prepare the exhibits
11 marked NS-PGL Exhibits 40.1 through 40.5?

12 A. Yes.

13 Q. Do you have any corrections or additions to
14 either the testimony or the exhibits?

15 A. No.

16 Q. And do the pieces of testimony and
17 exhibits -- are they true and correct to the best of
18 your knowledge?

19 A. Yes.

20 Q. If I were to ask you the questions
21 contained in your prefiled direct and surrebuttal
22 testimony today, would your answers be the same?

1 A. Yes.

2 MR. JACKSON: Your Honor, as I seek the
3 incorporation of Mr. Kuse's direct and surrebuttal
4 testimony into the record as it read and for the
5 admission of Exhibit NS-PGL 40.1 through 40.5.

6 (Witness sworn.)

7 JUDGE LEAGUE: Are there any objections to the
8 exhibits being admitted into evidence?

9 (No response.)

10 JUDGE TEAGUE: Hearing no objections, North
11 Shore Exhibit 4.0 is admitted, along with PGL Exhibit
12 4.0. In addition, NS-PGL Exhibit 40.0, 40.1 through
13 40.5 are admitted into evidence.

14 (The aforesaid Exhibits were
15 admitted into evidence.)

16 MR. JACKSON: Thank you. The witness is
17 available for cross.

18 CROSS-EXAMINATION

19 BY MS. LUSSON:

20 Q. Good morning, Mr. Kuse. My name is Karen
21 Lusson, and I'm from the Attorney General's Office.

22 A. Good morning.

1 Q. My questions will deal completely with your
2 direct testimony.

3 A. Okay.

4 Q. If you could reference Page 5 of your
5 testimony?

6 A. Yes.

7 Q. Generally speaking, you're testifying about
8 the company's gas sale forecast methodology, is that
9 be right?

10 A. Yes.

11 Q. Is it correct that that methodology is used
12 by the companies to predict customer demand for
13 natural gas?

14 A. Yes.

15 Q. And to the extent that the gas sales
16 forecast methodology is used to predict the demand
17 for natural gas, would you agree that impacts the
18 company's forecast of revenues for the test year?

19 A. Yes.

20 Q. And referring to Page 3 of your testimony,
21 Line 48 --

22 A. Yes.

1 Q. -- you indicate that you're using
2 methodologies to measure each customer segment
3 sensitivity to certain variables, and you list those
4 variables there, is that right?

5 A. Yes.

6 Q. And as I understand your testimony, you use
7 the per customer regression model that uses multiple
8 variables developed by Intron, one, to examine
9 heating and other gas usage?

10 A. That is correct.

11 Q. And this is referred to as a statistically
12 adjusted end-use model or the acronym SAE model?

13 A. Yes.

14 Q. Is it correct that this model makes use of
15 billing heating degree days?

16 A. That is correct.

17 Q. And can you briefly explain what heating
18 degree days are for the record?

19 A. They are a measure of how the weather
20 varies around a specific point in the temperature.
21 We use heating degree days based on 65. A heating
22 degree day measures the average variation of the

1 temperature from that point.

2 Q. And the calculation -- is it correct that
3 the calculation of the number of heating degree days,
4 again, impacts the gas usage forecast?

5 A. Yes.

6 Q. And is it also correct that this model
7 examines appliance saturation rates?

8 A. Yes.

9 Q. And those appliance saturation rates, are
10 those national figures or are they more specific to
11 the Peoples Gas North Shore service territory?

12 A. They are for the Northern Midwest Region.

13 Q. And those are based on trends provided by
14 the U.S. Energy Information Administration, is that
15 correct?

16 A. That is correct.

17 Q. Is it also correct that your model makes
18 use of real personal income associated with
19 customers, natural gas customers?

20 A. Yes.

21 Q. And then also, the models, I understand it,
22 examines the real price to the customer of natural

1 gas?

2 A. Yes.

3 Q. And is that of natural gas supply or
4 natural gas delivery rates?

5 A. It is based on the future prices for the
6 natural gas.

7 Q. Is it fair to say then when the companies
8 are forecasting demand for purposes of
9 establishing -- test your forecast levels, that they
10 take into account variables that might the affect
11 customer usage such as weather, price, the effects of
12 energy efficiency investment, and socioeconomic
13 trends?

14 A. That is correct.

15 Q. And is it correct that with respect to
16 weather, and that is the examination of heating
17 degree days, is that the company employs an
18 examination of weather trends over the last 12 years
19 as experienced at O'Hare Airport?

20 A. That is correct.

21 Q. And all of these variables used within the
22 model would establish what the company hopes will be

1 a normalized level of demand for each customer class,
2 is that true?

3 A. Yes.

4 Q. Just to clarify, in terms of that 12-year
5 weather examination period at O'Hare, that generates
6 the number of heating degree days for purposes of
7 your forecast, is that right?

8 A. That is correct.

9 Q. Is it correct that in terms of the price of
10 natural gas that I think you indicated is based on
11 the NYMEX, that's N-Y-M-E-X, short-term forecast, is
12 the point of that to look -- to examine the impact of
13 price on the demand for gas given an assumed
14 elasticity of demand for natural gas?

15 A. Yes.

16 Q. And so under the model you use, is it
17 correct that the elasticity factor is fixed and the
18 impact of price, as price changes, affects or creates
19 variances in the amount of natural gas demanded?

20 A. That's correct.

21 Q. Now, with respect to the EIA data, you
22 indicated that -- I think you said that that's for

1 the Northern Midwest region, is that correct?

2 A. Yes.

3 Q. And can you elaborate on what kind of
4 efficiency data or efficiency trends are included in
5 that data that you use for purposes of your model?

6 A. I'm sorry, could you repeat that again?

7 Q. Sure. I think it was a bit awkwardly
8 worded. Can you elaborate on what the variables are
9 included in that EIA data that you use in your
10 demands model?

11 A. Yes. Just one second, please. The
12 variables that are included would be saturation, as
13 you said before, saturation of furnaces and boiler.

14 It includes also the efficiency of the
15 stock of heating. It also includes an estimate of
16 house sizes. It also includes saturation of water
17 heaters and other appliances that use natural gas.
18 It includes the appliance efficiency as well.

19 Q. And when you say it includes the appliance
20 efficiency, that's both furnaces, boilers, and the
21 water heaters?

22 A. Yes.

1 Q. And in your view, is the use of that North
2 Midwestern energy efficiency data a reasonable
3 representation of the efficiency characteristic of
4 the Peoples Gas North Shore service territory?

5 A. Yes.

6 Q. And with respect to the SAE models
7 examination of socioeconomic trends, this
8 incorporates an examination of the effect of income
9 and household size; that is, the number of people
10 within a residence on average, is that correct?

11 A. That is correct.

12 Q. And again, is the goal of examining all of
13 these variables to assess as accurately as possible
14 how these variables will impact customer usage of
15 natural gas?

16 A. Yes.

17 Q. And as I understand your testimony as part
18 of your forecasting gas sales, you also look at
19 anticipated trends in customer numbers for purposes
20 of evaluating test-year gas demand, is that true?

21 A. That's correct.

22 Q. Would it be accurate to say that the reason

1 why it's important to accurately forecast customer
2 usage going forward, and specifically in the test
3 year, so that the Rate Design Department can use your
4 analysis for purposes of establishing the billing
5 determinant that will reflect the revenue
6 requirements established in this case?

7 A. Yes.

8 Q. And is it also correct that we need an
9 accurate billing determinant to ensure that the rates
10 established at the end of this case accurately
11 generate the amount of revenues approved by the
12 commission as necessary for the company to recover
13 its costs?

14 A. That is correct.

15 Q. Now, turning to Page 8 of your direct
16 testimony, you indicate that the SAE model has
17 performed well historically; is that your testimony?

18 A. Yes.

19 Q. And that's for both Peoples Gas and North
20 Shore?

21 A. Yes.

22 Q. And is it still your testimony that it's

1 performed well historically and that the statistical
2 reliability is quite high for both per customer and
3 number of customer equations?

4 A. Yes.

5 Q. And when annual demand is significantly
6 more or less than forecasted, is it largely a
7 function of weather? And let me back up that
8 question by saying, for example, if we have -- for
9 example, as a hypothetical, if we have an unusually
10 cold winter such that heating degree days are higher
11 than anticipated, or if the opposite occurs,
12 unusually warm winter with fewer degree days.

13 A. That will affect the forecast. That will
14 affect the variation of actual sales from the
15 forecast.

16 Q. And in your view of all the factors
17 impacting demand that we've referenced here, I think
18 it includes socioeconomic variables, efficiency
19 variables, housing size, number of customers, and the
20 other factors you've listed, does weather -- or in
21 your view is weather the biggest driver of customer
22 usage of natural gas?

1 A. I would say it's one of the more
2 significant factors, yes.

3 Q. Is it fair to say that assuming that the
4 company employs your forecasting methodology for
5 purposes of establishing billing determinants, that
6 it will reflect both yours and the company as a whole
7 best estimation of what the demand for natural gas
8 will be based on all of the variables that the
9 company believes and the model incorporates will
10 affect demand for gas going forward?

11 A. Yes.

12 Q. Thank you, Mr. Kuse. I don't have any
13 further questions.

14 A. Thank you very much.

15 JUDGE DOLAN: Redirect?

16 MR. JACKSON: One question.

17 REDIRECT-EXAMINATION

18 BY MR. JACKSON:

19 Q. Mr. Kuse, just so the record's clear, would
20 you describe the Northern Midwest Region that you
21 were referring to earlier with respect to the -- I
22 believe it was the EIA data?

1 A. I don't have all the states listed directly
2 in my testimony. It includes -- however, I know it
3 includes Wisconsin, Illinois, Michigan, and I believe
4 Indiana. There may be one or two others. I don't
5 have that list in front of me.

6 MR. JACKSON: Thank you. That's all I have.

7 JUDGE DOLAN: Thank you, Mr. Kuse. You're
8 excused.

9 THE WITNESS: Thank you.

10 (Witness excused.)

11 MR. FEELY: The next witness is Michael
12 Ostrander. Depending on whether the parties had
13 Cross Exhibits for him, if they do, then I'd ask that
14 we take a lunch break, because Mr. Allen would hand
15 out those exhibits at the meeting at noon.

16 JUDGE DOLAN: Probably be a good time to take a
17 lunch break. We're off the record.

18 (Lunch recess had.)

1 JUDGE DOLAN: Go ahead and proceed.

2 MS. PALMER: Your Honor, if you can
3 swear the witness, please.

4 WHEREUPON:

5 MICHAEL OSTRANDER
6 called as a witness herein, having been first duly
7 sworn, deposeth and saith as follows:

8 JUDGE DOLAN: All right.

9 MS. PALMER: Your Honor, before we
10 begin, staff circulated a revised schedule that is
11 attached to Mr. Ostrander's rebuttal. We did
12 circulate it with the parties, but I'd like to
13 hand out a copy in case it comes up so people can
14 follow.

15 JUDGE DOLAN: Okay.

16 D I R E C T E X A M I N A T I O N

17 BY MS. PALMER

18 Q. Mike, can you please state your name
19 for the record and spell your last name?

20 A. Mike Ostrander, O-S-T-R-A-N-D-E-R.

21 Q. And who is your employer and what is
22 your business address?

1 A. The Illinois Commerce Commission,
2 527 East Capitol Avenue, Springfield, Illinois
3 62701.

4 Q. And what is your position at the
5 Illinois Commerce Commission?

6 A. I'm an accountant in the financial
7 analysis division.

8 Q. Did you prepare written exhibits for
9 submittal in this proceeding?

10 A. Yes.

11 Q. Do you have before you a document
12 which has been marked for identification as ICC
13 Staff Exhibit 3.0, which consists of a cover page,
14 table of contents, 23 pages of narrative
15 testimony, Attachments A and B, Schedules 3.01
16 through 3.08N and 3.01 through 3.09P and is
17 entitled Direct Testimony of Mike Ostrander?

18 (Document marked as Staff
19 Exhibit No. 3.0 for
20 identification.)

21 BY THE WITNESS:

22 A. Yes, and I'd like to make a note

1 that there are public and confidential versions of
2 my direct testimony. Page two Schedules 3.0N and
3 P and page two is the only page with the
4 confidential information.

5 BY MS. PALMER:

6 Q. Thank you. Did you prepare that
7 document for presentation in this matter?

8 A. Yes.

9 Q. Do you have before you a document
10 which has been marked for identification as ICC
11 Staff Exhibit 10.0, which consists of a cover
12 page, table of contents, five pages of narrative
13 testimony, Schedules 10.10N and P respectfully and
14 it's entitled Supplemental Direct Testimony of
15 Mike Ostrander?

16 (Document marked as Staff
17 Exhibit No. 10.0 for
18 identification.)

19 BY THE WITNESS:

20 A. Yes.

21 BY MS. PALMER:

22 Q. Did you prepare that document for

1 presentation in this matter?

2 A. Yes.

3 Q. Do you also have before you a
4 document which has been marked for identification
5 as ICC Staff Exhibit 13.0, which consists of a
6 cover page, table of contents, 25 pages of
7 narrative testimony, Attachments A through F,
8 Schedules 13.01 through 13.04N and 13.01 through
9 13.05P and is entitled Rebuttal Testimony of Mike
10 Ostrander?

11 (Document marked as Staff
12 Exhibit No. 13,0 for
13 identification.)

14 BY THE WITNESS:

15 A. Yes.

16 BY MS. PALMER:

17 Q. And did you prepare this document
18 for testimony in this matter?

19 A. Yes.

20 Q. Do you have any changes or
21 corrections to make to ICC Staff Exhibit's 3.0,
22 10.0 or 13.0?

1 A. Yes. I have changed in my rebuttal
2 testimony Staff Exhibit 13.0 to the schedules
3 attached. My rebuttal testimony Schedules 13.02N
4 P adjustments to nonunion wages needed to be
5 corrected to reflect an average year impact for
6 capitalized construction wages and to correct the
7 ADIT Adjustment on 13.02P.

8 I revised the capitalized
9 construction wage adjustment at line eight, column
10 F, line one of Schedules 13.02N and P to reflect
11 the impact of an average year for test year rate
12 based presentations.

13 I also corrected the ADIT
14 adjustment for Schedule 13.02P at line 13, column
15 E, page one. Only page one of the three page
16 adjustment schedule was revised.

17 Q. Did this change affect the
18 recommendations in your testimony?

19 A. No.

20 Q. Is the information contained in ICC
21 Staff Exhibit's 3.0, 10.0 and 13.0 true and
22 correct to the best of your knowledge?

1 A. Yes.

2 Q. If I would ask you the same
3 questions today as set forth again in ICC Staff
4 Exhibit's 3.0, 10.0 and 13.0, would your responses
5 be the same today?

6 A. Yes.

7 MS. PALMER: Your Honor, I move for
8 admission into evidence ICC Staff Exhibit's 3.0,
9 10.0 and 13.0. I note for the record that these
10 are the same documents that were filed subject to
11 the changes and corrections noted today on the
12 record back on November 20th, 2012, December 6th,
13 2012, January 16th, 2013, via E-docket.

14 JUDGE DOLAN: Any objections?

15 MR. EIDUKAS: No objection.

16 MS. PALMER: Additionally, your
17 Honor, if we can also get leave to file the
18 supplemental revised schedules that we mentioned
19 earlier, 13.02 designation N and P later on today
20 they've been circulated, but have not been filed
21 on E-docket yet.

22 JUDGE DOLAN: Again, is there

1 objections to that?

2 MR. EIDUKAS: No objection.

3 JUDGE TEAGUE: Then you have leave
4 to file those. Okay. Then hearing no objections,
5 Staff Exhibit 3.0 along with Schedules 3.01N and
6 P, confidential and public, 3.02N and P through
7 3.08N and P, along with 3.0N and P and Attachment
8 A and B will be admitted into the record.

9 Exhibit 10.0 along with
10 Schedules 10.10N and P will be admitted into the
11 record and Exhibit 13.0 along with Schedules
12 13.01N and P through 13.04N and P will be admitted
13 into the record and -- okay. 13.05P and
14 Attachments A through F will be admitted into the
15 record and as previously testified 13.02N and P
16 revised will be filed today, correct?

17 MS. PALMER: That's correct, your
18 Honor. Thank you.

19 JUDGE DOLAN: Thank you.

20 MS. PALMER: Mr. Ostrander is now
21 available for cross-examination.

22 JUDGE DOLAN: Ms. Lusson?

1 MS. LUSSON: Your Honor, I'm happy
2 to go first, but I would like to note for the
3 record that in our view interveners or the company
4 should not necessarily be given the right to go
5 last when the cross-examination is of staff and
6 intervener's witnesses, particularly if the cross
7 of an intervener attorney is to illicit classic
8 cross-examination on matters that we disagree
9 with.

10 We don't think it's appropriate
11 and we will object if the company intends --
12 attempts to rehabilitate or do friendly cross of
13 Mr. Ostrander on the issues that we present in our
14 cross-examination.

15 JUDGE DOLAN: So noted.

16 MS. LUSSON: Thank you.

17 C R O S S E X A M I N A T I O N

18 BY MS. LUSSON

19 Q. Good afternoon, Mr. Ostrander.

20 A. Good afternoon.

21 Q. Is it correct that for purposes of
22 your testimony in this proceeding regarding

1 employee vacancy adjustments that you did not
2 independently conduct any analysis into the issue
3 of employee vacancy rates or the treatment of
4 vacant positions within Peoples Gas and North
5 Shore Gas's forecasted test year expenses?

6 A. That's correct.

7 Q. And regarding your testimony on page
8 24 related to incentive compensation programs,
9 specifically related to the 2013 non-executive
10 incentive compensation plan related to achievement
11 of O/M expense savings, it's correct, isn't it,
12 that you cannot state or point to an amount of
13 incremental expense reduction in the test year or
14 in any other year you might have examined that
15 resulted from the company's incentive compensation
16 plans?

17 MS. PALMER: I'm sorry. I'm going
18 to object just for a moment. Karen, can you
19 please clarify what document you're looking at?

20 MS. LUSSON: I'm sorry. It's
21 Mr. Ostrander's rebuttal testimony.

22 MS. PALMER: Thank you.

1 BY THE WITNESS:

2 A. I'm sorry. I lost track. Could you
3 repeat the question?

4 BY MS. LUSSON:

5 Q. Sure. Regarding your testimony
6 relating to the 2013 non-executive incentive
7 compensation plan related to achievement of O/M
8 expense savings, it's correct, isn't it, that you
9 cannot state or point to an amount of incremental
10 expense reduction in the test year or in any other
11 year you might have examined that resulted from
12 the company's incentive compensation plans, can
13 you?

14 A. That's correct.

15 Q. With respect to your testimony
16 addressing Mr. Brosch's proposed productivity
17 adjustment, is it correct that you have not
18 conducted any analysis of Peoples Gas, North Shore
19 Gas or gas utility industry productivity rates,
20 productivity factors or incremental efficiency
21 gains?

22 A. That's correct.

1 Q. And you're not aware of any other
2 staff member that has conducted such an analysis,
3 is that true?

4 A. That's correct also.

5 Q. Do you know or can you verify that
6 the utility's non-executive compensation plan that
7 the weighting associated with that is placed on a
8 cost control measure that requires the meeting of
9 certain levels of combined IBS and Integrys
10 utilities, O/M expense and not individual utility
11 company benchmarks?

12 A. As I understand the plan mechanics,
13 the awarding of the bonus payments would be based
14 upon the Integrys group. Not the individual
15 companies.

16 MS. LUSSON: Thank you,
17 Mr. Ostrander. That's all the questions I have.

18 C R O S S E X A M I N A T I O N

19 BY MR. EIDUKAS

20 Q. Good afternoon, Mr. Ostrander. My
21 name is Ted Eidukas and I will be asking you a few
22 questions on behalf of the utilities this

1 afternoon.

2 A. Good afternoon.

3 Q. Mr. Ostrander, would I be correct
4 that all things being equal you do not have any
5 objection if a utility were to give a higher pay
6 increase to a top performing employee relative to
7 a pay increase that utility would give to an
8 employee who performs at an average or merely
9 satisfactory basis, would you?

10 A. So all things being equal you have a
11 high performing employee versus an average
12 employee, is that correct?

13 Q. That's correct.

14 A. Okay. So that the average -- or
15 excuse me. Does the higher performing person
16 deserve such a raise? If they perform, yes.

17 Q. Could you turn -- do you have your
18 rebuttal testimony in front of you?

19 A. I will.

20 Q. When you get to it, I'm going to be
21 looking at pages -- I'm going to start with page
22 13 of your rebuttal testimony.

1 A. I'm there.

2 Q. Okay. Looking at lines 233 through
3 235 it says this increase, and that increase is
4 referring to a proposed increase by the utilities,
5 you state on lines 233 through 235 "This increase
6 is inconsistent with the data from the WorlдатWork
7 survey that shows average increases are in the
8 high two percent range and only the very top
9 performers receive up to four percent increases."

10 My first question to that is are
11 you familiar with what the WorlдатWork survey?

12 A. Yes.

13 Q. And what is your understanding of
14 what that -- what the WorlдатWork survey is?

15 A. Excuse me a moment.

16 Q. Sure.

17 A. As I understand the WorlдатWork
18 survey, it's a study based on the projection of
19 pay increases for 2012, 2013.

20 Q. And referring to the sentence from
21 your rebuttal testimony we were looking at here
22 that states average increases -- that the

1 WorldatWork survey shows average increases in the
2 high two percent range and that top performers --
3 very top performers receive up to a four percent
4 increase, do you have any reason to doubt that
5 conclusion from the WorldatWork survey?

6 A. No, I do not.

7 Q. If you can turn back in the rebuttal
8 testimony to the previous page, page 12, I'd like
9 to look at lines 219 through 225.

10 A. I'm there.

11 Q. The first sentence states "The
12 company's have described the merit increases as
13 for promotions and employees who have demonstrated
14 exemplary performance." Is it your understanding
15 that utilities have requested in their nonunion
16 wage increases that there are actually two
17 separate components, one being for a merit
18 increases and one being for pay increases relative
19 to promotions, is that your understanding?

20 A. Yes.

21 Q. And that -- it's true -- am I
22 correct that you don't dispute the testimony from

1 the companies that those pay increases are only
2 being given to certain employees and not across
3 the board to all employees, correct?

4 A. The individual granting of the
5 raises are to individual employees, but as I
6 understand what was presented in the forecast
7 expenses is that those percentages have been
8 applied across the total.

9 Q. Correct. So that the calculation of
10 the amount for these two pools of money is
11 calculated based on a percentage of the overall
12 wage base, correct?

13 A. Can you say that again? I didn't
14 follow you.

15 Q. Sure. The calculation for those two
16 pools of funds being used to give pay raises to
17 particular individual employees are being
18 calculated by taking a percentage of the overall
19 wage base, correct?

20 A. As I understand it, the percentages
21 represent what a -- when you look at each
22 individual and you sum that together, that would

1 represent the percentage to the total.

2 Q. If you could look at -- Strike that.
3 So on line 222, the sentence starting there states
4 "In the company's 2011 rate cases, merit increases
5 were forecasted at 0.9 percent for test year 2012
6 and yet only half of those were granted by the
7 companies."

8 The 0.9 percent you state in
9 that sentence, was that calculated by you by
10 combining both the merit based increases for high
11 performers and the amount calculated for giving
12 promotional raises?

13 A. The reference talks to -- points to
14 the 2011 rate case North Shore PGL Exhibit 25.0
15 page 19. I can't tell specifically if that is a
16 stand-alone number or a combined number -- excuse
17 me -- percentage.

18 MR. EIDUKAS: I'd like to ask
19 Mr. Allen who I believe is in the room if he can
20 show you what has been marked for identification
21 as NS/PGL Exhibit, I believe it will be, 3.

22

1 (Document marked as NS/PGL
2 Exhibit No. 3 for
3 identification.)

4 BY MR. EIDUKAS:

5 Q. Mr. Ostrander, what I've handed
6 to -- I'll represent what I have marked for
7 identification as NS/PGL Cross 3 is the cover page
8 and pages marked 18 through 21 of the rebuttal
9 testimony of Noreen E. Cleary from the North Shore
10 and Peoples Gas 2011 rate cases marked in that
11 case as NS/PGL 25.0.

12 I'll represent that I believe
13 this is the testimony inclusive of page 19
14 referred to here in rebuttal in your footnote 18.
15 If you can just take a moment to look at that and
16 confirm if this is the document that you're
17 referencing in the footnote to your rebuttal
18 testimony?

19 A. Yes.

20 Q. So if you look at -- I'd like to
21 move NS/PGL Cross Exhibit 3 into evidence at this
22 time?

1 MS. PALMER: Your Honor, I'm not
2 quite sure how the document is going to be used.
3 I understand one particular page was cited. I'm
4 not sure what premise opposing counsel attempts to
5 bring up out of this. So I'm going to ask if I
6 can reserve my objection until redirect?

7 MR. EIDUKAS: Your Honor, this
8 document is a reference in staff witness's
9 testimony cited to, but not attached as an exhibit
10 to that testimony. It's not otherwise part of the
11 record in this case other than the citation.
12 Because it's a document that he in his testimony
13 is claiming to rely upon and he has identified it
14 as such today, I believe it is appropriate to
15 enter it into evidence.

16 JUDGE DOLAN: I just have one
17 question. I'm looking at footnote 16 and it's in
18 Exhibit 29.

19 MR. EIDUKAS: I believe it should be
20 footnote 18, your Honor.

21 JUDGE DOLAN: Okay. I'm sorry.
22 Nevermind.

1 MS. PALMER: I also want to point
2 out, Judge, that we're looking at pages 18 through
3 21 in this particular exhibit that is being
4 submitted and Mr. Ostrander's testimony
5 specifically cites to page 19 only.

6 MR. EIDUKAS: In response to that, I
7 included the other pages to provide context and
8 completeness to page 19, but if the objection is
9 to the inclusion of the contextual pages
10 surrounding page 19, we can remove those.

11 MS. PALMER: I'd still ask to
12 reserve my objection until redirect.

13 JUDGE DOLAN: Subject to that, go
14 ahead and proceed, counsel.

15 BY MR. EIDUKAS:

16 Q. Mr. Ostrander, if you look at page
17 19 in NS/PGL Cross Exhibit 3, please look at lines
18 412 through 417 and you'll see that it refers to
19 an additional three percent being forecasted as
20 merit increases for high performers and then an
21 additional 0.6 percent, but it is for 2011 to be
22 used for promotional increases and adjustments.

1 My question is, is it the aggregation of those two
2 numbers that you're referring to here on the page
3 19 in footnote 18 of your rebuttal testimony to
4 arrive at the 0.9 percent referenced in rebuttal
5 testimony?

6 A. Yes.

7 Q. So that 0.9 percent referred to at
8 line 223 of the rebuttal testimony only 0.3
9 percent of that amount was budgeted for merit
10 increases to be high performing employees,
11 correct?

12 A. That's correct.

13 Q. Isn't it true that in the years 2011
14 and 2012 at least 0.3 percent was given as merit
15 increases to high performers at North Shore and
16 Peoples Gas?

17 A. I don't have that information in
18 front of me. I don't know.

19 Q. I'd like you to be shown what has
20 been previously admitted into evidence as NS/PGL
21 45.5, which I'll hand out here for everyone to
22 refer to.

1 Mr. Ostrander, NS/PGL 45.5,
2 which was admitted into evidence yesterday during
3 the testimony of Mr. Noreen Cleary it's a Peoples
4 Gas response to a data request number JMO 1.14.
5 First, is this a document referred to in footnote
6 19 of your rebuttal testimony?

7 A. Yes.

8 Q. And you see where it says 2011 3.0
9 percent general wage increase and 0.3 percent
10 merit?

11 A. Yes.

12 Q. And then for 2012 it says 3.0
13 percent general wage increase and 0.45 percent
14 merit, correct?

15 A. Yes.

16 Q. So based on this document, do you
17 have any reason to doubt that in 2011 and 2012 at
18 least 0.3 percent merit increases were given for
19 high performing employees?

20 A. The response to your question JMO
21 1.14 for 2011 shows 0.3 percent merit increases
22 and for 2012 0.45 merit increases, yes.

1 MR. EIDUKAS: Thank you,
2 Mr. Ostrander. I have no further cross.

3 JUDGE DOLAN: Any --

4 MS. PALMER: Your Honor, can we have
5 a moment before redirect?

6 JUDGE DOLAN: Yes.

7 (Whereupon, a break was taken
8 after which the following
9 proceedings were had.)

10 JUDGE DOLAN: Back on the record.

11 MS. PALMER: Staff has no redirect
12 and also, your Honor, I don't object to the
13 admission of NS/PGL Cross Exhibit 3. However, we
14 will maintain that we are only -- we will not
15 object as long as only page 19 is admitted into
16 the record.

17 JUDGE DOLAN: Is there any problem
18 with that?

19 MR. EIDUKAS: No, your Honor.

20 JUDGE DOLAN: Okay. Subject to that
21 Company Cross Exhibit -- NS/PGL Cross Exhibit No.
22 3 page 19 only will be admitted into the record.

1 Page 19 and the cover page?

2 MS. PALMER: And the cover page.

3 JUDGE DOLAN: All right. Thank you,
4 Mr. Ostrander. You're excused.

5 THE WITNESS: Thank you, your Honor.

6 JUDGE DOLAN: Looks like Mr. Rearden
7 is up next.

8 MR. FEELEY: Yes, your Honor. At
9 this time, staff calls its next witness,
10 Dr. David Rearden.

11 JUDGE TEAGUE: Good afternoon,
12 Mr. Rearden. Can you please raise your right
13 hand?

14 WHEREUPON:

15 DAVID REARDEN
16 called as a witness herein, having been first duly
17 sworn, deposeth and saith as follows:

18 D I R E C T E X A M I N A T I O N

19 BY MR. FEELEY

20 Q. Could you please state your name for
21 the record? We didn't hear that.

22 A. I guess I should turn the mic on.

1 David Rearden, R-E-A-R-D-E-N.

2 Q. Dr. Rearden, do you have in front of
3 you a document that has been marked for
4 identification as Staff Exhibit 18.0 entitled
5 Rebuttal Testimony of David Rearden, it consists
6 of a cover page, eight pages of narrative text and
7 no schedules and no attachments to it?

8 A. That's correct, yes.

9 (Document marked as Staff
10 Exhibit No. 18.0 for
11 identification.)

12 BY MR. FEELEY:

13 Q. And was ICC Staff Exhibit 18.0
14 prepared by you or under your direction,
15 supervision and control?

16 A. Yes.

17 Q. Do you have any additions, deletions
18 or modifications to make to ICC Staff Exhibit
19 18.0?

20 A. No.

21 Q. If I were to ask you today the same
22 series of questions set forth in that document,

1 would your answers be the same?

2 A. Yes.

3 MR. FEELEY: Your Honor, at this
4 time, staff would move to admit into evidence ICC
5 Staff Exhibit 18.0, the rebuttal testimony of
6 David Rearden.

7 JUDGE TEAGUE: Are there any
8 objections to the admission of this exhibit?

9 MR. TOWNSEND: No objection.

10 JUDGE TEAGUE: Then ICC Staff
11 Exhibit 18.0 is admitted into evidence. You may
12 proceed.

13 MR. TOWNSEND: I'm not sure he was
14 sworn.

15 JUDGE TEAGUE: He was.

16 MR. FEELEY: He was.

17 MR. TOWNSEND: While I was setting
18 up. I appreciate it.

19 C R O S S E X A M I N A T I O N

20 BY MR. TOWNSEND

21 Q. Good afternoon. I'm Chris Townsend
22 on behalf of Interstate Gas Supply of Illinois,

1 Inc. Can we agree that if I refer to IGS Energy,
2 I'm referring to Interstate Gas Supply of
3 Illinois, Inc.?

4 A. Sure.

5 Q. And are you aware that IGS Energy is
6 a licensed alternative gas supplier in the State
7 of Illinois?

8 A. Yes.

9 Q. And IGS Energy has been actively
10 serving the Illinois natural gas market for almost
11 ten years, correct?

12 A. I don't know how long.

13 Q. If that's what is stated in
14 Mr. Parisi's testimony, direct testimony, at page
15 two, lines 31 to 32, do you have any reason to
16 disagree with that?

17 A. No.

18 Q. You are the senior economist of
19 staff of the Illinois Commerce Commission in the
20 policy program, correct?

21 A. Yes.

22 Q. And you only filed rebuttal

1 testimony in this proceeding, correct?

2 A. Yes.

3 Q. And your rebuttal testimony
4 addresses certain proposals made by IGS Energy
5 regarding the customer choice programs of Peoples
6 Gas and North Shore Gas, correct?

7 A. Yes.

8 Q. Okay. Just so we're on the same
9 page. The discussion that we're going to have now
10 is not about a topic that has been the subject of
11 any cross-examination thus far. We're not going
12 to talk about expense adjustments or incentive
13 compensation programs. Instead, we're going to
14 talk about customer choice programs. Okay?

15 A. Okay.

16 MR. FEELEY: I guess just a point of
17 clarification. You're going to question him about
18 his testimony, correct?

19 MR. TOWNSEND: Which is not dealing
20 with any of those other topics, but instead is
21 dealing -- that's all I was trying to say.

22 MR. FEELEY: Dr. Rearden's

1 testimony is very specific on what it is
2 addressing and --

3 MR. TOWNSEND: If you have an
4 objection to the scope of the cross examination,
5 I'm sure we'll hear it, but I was just trying to
6 set the groundwork for the administrative law
7 judges actually to explain the subject matter here
8 is going to change, that we aren't going to talk
9 about line items and expenses, but rather customer
10 choice.

11 MR. FEELEY: As discussed in his
12 testimony.

13 BY MR. TOWNSEND:

14 Q. Just so we're on the same page.
15 When I refer to an alternative gas supplier, can
16 we agree that I'm talking about a competitive gas
17 supplier that can provide the commodity of natural
18 gas to customers in Illinois?

19 A. Are you talking about just
20 certificated suppliers or all suppliers?

21 Q. Certificated suppliers.

22 A. Yes.

1 Q. And sometimes those are also
2 referred to as alternative retail gas suppliers,
3 right?

4 A. Yes.

5 Q. But today we'll refer to those as
6 alternative gas suppliers. Okay?

7 A. Okay.

8 Q. And Peoples and North Shore have ICC
9 approved programs for alternative gas suppliers
10 like IGS Energy to provide competitive services to
11 customers, correct?

12 A. Yes.

13 Q. And the program that they have for
14 residential and small commercial customers is
15 called the Choices For You Program, right?

16 A. That's correct.

17 Q. And you referred to that program in
18 your testimony, right?

19 A. Yes.

20 Q. So residential and small commercial
21 customers in Peoples Gas and North Shore Gas
22 service territories have the choice of getting the

1 commodity of natural gas either from the utility
2 or from an alternative gas supplier, right?

3 A. Yes.

4 Q. And residential and small commercial
5 customers who get their supply from the utility
6 are commonly referred to as sales customers,
7 right?

8 A. Yes.

9 Q. And residential and small commercial
10 customers who get their supply from an alternative
11 gas supplier are commonly referred to as
12 transportation customers or Choices For You
13 customers, right?

14 A. Yes.

15 Q. Now, just to be clear. If a
16 customer in the Choices For You Program gets its
17 supply of natural gas from an alternative gas
18 supplier like IGS Energy, that customer is still a
19 customer of Peoples Gas or North Shore Gas, right?

20 A. Yes.

21 Q. And that's because Peoples and North
22 Shore still own and operate the facilities such as

1 the pipes through which the gas is delivered to a
2 particular customer's premises, right?

3 A. Yes, they're the delivery company.

4 Q. And Peoples and North Shore get paid
5 for providing that service of delivering the gas,
6 right?

7 A. Of course.

8 Q. And Peoples and North Shore are not
9 unique in offering a customer a choice program,
10 right?

11 A. On the gas side, they're fairly
12 unique because Nicor is the only other one that
13 has a small program.

14 Q. And the only other substantial gas
15 utility in the state is Ameren, correct?

16 A. Besides those three, yes.

17 Q. And Ameren actually was directed to
18 hold workshops after the conclusion of its last
19 rate case in order to explore the development of a
20 natural gas choice program, right?

21 A. Yes.

22 Q. And Nicor's program for residential

1 and small commercial customers is called the
2 Customer Select Program, right?

3 A. If you say so.

4 Q. You'll accept that subject to check?

5 A. Yes.

6 Q. And the ICC supports providing
7 customer choice for residential and small
8 commercial customers, doesn't it?

9 A. Yes.

10 Q. Can you please provide Dr. Rearden
11 with the data requests response to IGS 1.06. It's
12 approximately the fifth document and we'll mark
13 this as IGS Energy Cross Exhibit No. 1.

14 (Document marked as IGS Exhibit
15 No. 1 for identification.)

16 BY MR. TOWNSEND:

17 Q. Have you had a chance to review
18 that?

19 A. Yes.

20 Q. And is that the response that you
21 provided to IGS data request 1.06?

22 A. Yes.

1 Q. And 1.06 there is a question about
2 whether the Commission has supported and promoted
3 natural gas competition and the response to that
4 question in response to question 1.06A you quoted
5 a portion of the Commission's January 20th, 2012,
6 final order in the last Ameren gas rate case?

7 A. That's correct.

8 Q. And that's Docket No. 11-0282,
9 correct?

10 A. That's correct.

11 Q. And there the Commission stated,
12 quote, the Commission notes that it has long had a
13 policy favoring competition in energy markets and
14 the Commission believes that customers will
15 generally benefit from being given the opportunity
16 to participate in a well-designed competitive
17 market, right?

18 A. Yes.

19 Q. Now, I'll have you review what is
20 being marked as IGS Cross Exhibit 2.

21

22

1 (Document marked as IGS Exhibit
2 No. 2 for identification.)

3 BY MR. TOWNSEND:

4 Q. This is the -- I'm sorry -- order
5 excerpt from that Docket 11-0282.

6 A. What is that document?

7 Q. An excerpt from the order that you
8 quoted in your response to the data request. Have
9 you had a chance to review that?

10 A. Sure.

11 Q. And is that indeed an excerpt from
12 that order?

13 A. Excuse me?

14 Q. Is that indeed an excerpt from that
15 order?

16 A. Yes, it looks like it.

17 Q. And the sentence that you had quoted
18 is the first sentence underneath the Commission's
19 conclusion, correct?

20 A. That's correct.

21 Q. And the next sentence underneath
22 that conclusion says the Commission also

1 recognizes that the act also generally supports
2 competition in the market and that the Commission
3 has consistently advanced this view, correct?

4 A. Correct.

5 Q. In our discussion today, I
6 particularly want to focus on the point that the
7 Commission made in that sentence that you quoted
8 from in your data request response. I want to
9 focus on the importance of a, quote,
10 well-designed, unquote, competitive market. Would
11 you agree that there can be poorly designed
12 competitive markets?

13 A. I suppose.

14 Q. If the program is poorly designed,
15 it will not work as well as if it were designed
16 better, right?

17 A. In a general sense, I suppose that's
18 true.

19 Q. Would you agree that the Commission
20 should look to both expert testimony and empirical
21 evidence to determine whether or not a competitive
22 market is well-designed and working well?

1 A. If those are things they should look
2 at, yes.

3 Q. Would you agree when comparing one
4 competitive program to another, one indicator of a
5 better designed competitive program would be a
6 higher participation rate by customers?

7 A. Not necessarily.

8 Q. That's not one of the indicators
9 that you would look to?

10 A. Not necessarily.

11 Q. But it may be relevant?

12 A. Well, it's a piece of information.

13 Q. Would you agree that when comparing
14 one competitive program to another, that an
15 additional piece of information that might be
16 relevant as to whether the program is better
17 designed would be a higher participation rate by
18 suppliers?

19 A. Again, not necessarily.

20 Q. You would ignore that piece of
21 information if that was given to you?

22 A. I didn't say I would ignore it. I

1 said it's not -- it's one piece of information in
2 a number of pieces of information that could be
3 looked at.

4 Q. So it's one of many indicators?

5 A. That's correct.

6 Q. And, likewise, the number of
7 customers is one of many indicators?

8 A. That's correct.

9 Q. You'd agree that an important
10 component of a well-designed competitive market
11 would be the application of accurate cost
12 causation principals, right?

13 A. Yes.

14 Q. So, for example, if you know a
15 certain class of customers is not causing a cost
16 and is not benefiting from that cost, that class
17 of customers should not pay for that cost?

18 A. That's correct.

19 Q. And on that point, you have -- you
20 responded to data requests 1.06 and we have that
21 in front of you. It's been marked as IGS Cross
22 Exhibit 1 and I direct you to the question Sub B.

1 A. Yes.

2 MR. FEELEY: Which subpart, B or D?

3 MR. TOWNSEND: B as in boy.

4 BY MR. TOWNSEND:

5 Q. In there, you say that "a
6 well-designed competitive market is one in which
7 the utility should allocate costs as accurately as
8 their accounting systems allow," correct?

9 A. Yes.

10 Q. Now -- ?

11 MR. FEELEY: I'm sorry. It goes on
12 there.

13 MR. TOWNSEND: There is additional.
14 That's right.

15 BY MR. TOWNSEND:

16 Q. But that is part of your answer,
17 correct, is to focus on the utilities accounting
18 system, right?

19 MR. FEELEY: Objection. Could
20 you --

21 MR. TOWNSEND: The entire document
22 is in the record, your Honor. If he wants to

1 read --

2 MR. FEELEY: You read part of the
3 answer. I think you should read the full answer.

4 JUDGE DOLAN: He is only
5 concentrating on the one sentence at this point so
6 okay.

7 MR. TOWNSEND: Thank you.

8 BY MR. TOWNSEND:

9 Q. A utilities accounting system is not
10 set in stone, is it?

11 A. I'm not quite sure I know how to
12 respond. It's literally true -- it's not true, of
13 course. I don't know if I'm answering --

14 Q. I --

15 MR. FEELEY: Judge, could he answer
16 the question before Mr. Townsend interrupts him?

17 MR. TOWNSEND: He said he doesn't
18 know how to answer the question.

19 MR. FEELEY: He was giving an answer
20 and you jumped in and you're interrupting him.

21 MR. TOWNSEND: I certainly didn't
22 mean to interrupt him. I was trying to add

1 clarification, but, please, if you had more to
2 answer, please go ahead.

3 BY THE WITNESS:

4 A. I'm not an expert on accounting
5 systems, but I assume any accounting system can be
6 changed. I think that's what you were trying to
7 ask.

8 BY MR. TOWNSEND:

9 Q. That is what -- I apologize for
10 asking it unartfully. The Commission has the
11 authority to require a utility to modify its
12 accounting systems to more allocate costs, right?

13 A. That is my non-accountant opinion,
14 yes.

15 Q. Would you agree that the terms and
16 conditions set forth in the Peoples and North
17 Shore tariffs related to the Choices For You
18 Program affect the types of services that
19 alternative suppliers can offer customers?

20 A. Can you ask that again, please?

21 Q. Would you agree that the terms and
22 conditions, the amount of storage, the way in

1 which the program operates as reflected in the
2 tariffs of Peoples and North Shore affect the way
3 in which alternative suppliers can offer customer
4 service?

5 A. Yes.

6 Q. Would you agree that the design of a
7 program affects the effectiveness of a program?

8 A. I'm wrestling with the word
9 effectiveness. I agree that the terms and
10 conditions and how the programs arranged impact
11 how suppliers can provide service. Effectiveness
12 is a little bit more of a qualitative term and I'm
13 not quite sure exactly what you mean by that.

14 Q. Well, we've talked about programs
15 being properly designed and improperly designed,
16 correct, or poorly designed, right?

17 A. Sure.

18 Q. And you can have appropriately
19 designed terms and conditions or inappropriately
20 designed terms and conditions in order to be able
21 to facilitate choice or not facilitate choice,
22 correct?

1 A. I don't mean to quibble. I think
2 what I'm trying to say is I will agree that terms
3 and conditions can be poorly designed or
4 well-designed and the outcomes that follow from
5 that are different.

6 Q. And in this case the utilities have
7 not proposed any changes to the Choices For You
8 Program, correct?

9 A. Yes.

10 Q. And staff has not proposed any
11 changes to the Choices For You Program, right?

12 A. No.

13 Q. I'm sorry?

14 A. No.

15 Q. I'm sorry. What revision has staff
16 proposed to the Choices For You Program?

17 A. I thought I was agreeing with you.
18 I'm sorry. Staff has not proposed any changes. I
19 apologize.

20 Q. You would acknowledge that if the
21 Commission concludes that there is a poorly
22 designed element of the Choices For You Program it

1 would be appropriate for the Commission to order
2 that poorly designed element be remedied in the
3 context of the rate case, correct?

4 A. If the Commission finds an element
5 that is poorly designed, it can ignore a change.

6 Q. And if the utility accounting system
7 is causing the poorly designed element in the
8 program, the Commission can require that the
9 accounting system be modified, right?

10 A. I believe that's logical, yes.

11 Q. Let's talk about an element of the
12 Peoples and North Shore Choices For You Program
13 that Mr. Parisi, the IGS Energy witness, testifies
14 is poorly designed. Okay?

15 A. Okay.

16 Q. Let's specifically talk about
17 accurate cost allocation and the fees that are
18 charged to Choices For You customers. That's
19 referred to in Mr. Parisi's testimony at pages six
20 to seven of his rebuttal testimony, for example.

21 Do you have his testimony in
22 front of you by the way?

1 A. I do now.

2 Q. If you can turn to pages six to
3 seven of his rebuttal testimony and let me know
4 when you're there.

5 A. Okay.

6 MR. TOWNSEND: We won't mark this.
7 Just a courtesy copy.

8 JUDGE DOLAN: Thank you.

9 BY MR. TOWNSEND:

10 Q. So we're looking at pages six to
11 seven and let me know when you're there.

12 A. I'm there.

13 Q. You'd agree with me that regarding
14 cost allocations and fees Mr. Parisi makes two
15 basic points that are set forth in his testimony,
16 right? And I'll direct you to lines 130 to 131
17 for the first.

18 A. Okay.

19 Q. There, Mr. Parisi states that
20 Choices For You customers should not be charged
21 for costs that they neither cost nor from which
22 they benefit, correct?

1 A. That's what he says.

2 Q. And you agree with the general
3 principal regarding cost causation that he states
4 there, correct?

5 A. That's correct, yes.

6 Q. And, second, Mr. Parisi states that
7 the Choices For You administrative charges should
8 be recovered from all customers who have the
9 option to participate in the Choices For You
10 Program because all customers benefit from having
11 access to a competitive natural gas supply market
12 even if some choose not to take advantage of that
13 option, do you see that there?

14 A. Yes, that's what he says. I agree.

15 Q. And those concepts were included in
16 Mr. Parisi's direct testimony also that you
17 responded to, right?

18 A. That's correct.

19 Q. So let's talk about the point that
20 customers should not be charged for costs which
21 they don't cause and from which they don't
22 benefit. Okay?

1 A. Okay.

2 Q. If you look at Mr. Parisi's rebuttal
3 testimony at page six, lines 132 to 133, he
4 identifies the utilities hedging program as an
5 example of such a cost, right?

6 A. Yes, he does.

7 Q. And hedging refers to the process of
8 the utilities going out and guarding against price
9 volatility in the natural gas markets, right?

10 A. Yes.

11 Q. Would you agree that it doesn't
12 matter for a Choices For You customer if the
13 commodity price for sales customers are volatile?

14 A. No.

15 Q. How does it matter to the Choices
16 For You customer?

17 A. Well, the Choices For You
18 customer -- the supplier may have the option
19 sometimes to buy gas from the utility.

20 Q. I'm sorry. I asked specifically
21 about the sales customers. So not the rates that
22 are charged to the supplier, but the rates that

1 are charged to the sales customer.

2 Does it matter to a Choices For
3 You customer if the sales customer's prices are
4 volatile?

5 A. No.

6 Q. And that's because the Choices For
7 You customer gets its supply from the alternatives
8 supplier, not the utility, right?

9 A. Well, but the Choices For You
10 supplier may buy gas from the utility and the
11 hedging can influence that price of gas and maybe
12 produce volatility of that gas.

13 Q. I guess, first of all, there is no
14 requirement that the gas supplier do that, is
15 there?

16 A. No, there is no requirement that a
17 sales customer switch to transportation either.

18 Q. But a sales customer does get the
19 direct benefit of the hedging activity, correct?

20 A. Yeah, and I believe there's some
21 benefit to the transportation customer as well.

22 Q. Did you do any analysis of that for

1 this case?

2 A. It's my understanding under the
3 tariffs that transporters will sometimes have to
4 clear their imbalances and that is done through
5 the PUA, I believe.

6 MR. TOWNSEND: Move to strike that
7 answer as not responsive. I asked if he had done
8 any analysis of the hedging costs for the purposes
9 of this case.

10 JUDGE DOLAN: I'll sustain the
11 objection.

12 MR. FEELEY: Can I respond? He has
13 given an example of what he considered for that
14 answer that he gave to the previous question. So
15 I mean, I think he is saying his analysis is his
16 awareness of the tariffs.

17 JUDGE DOLAN: That's maybe how
18 you're saying -- are interpreting what he said,
19 but he didn't say it that way. So if that's what
20 he is saying, he needs to rephrase his answer, but
21 the way he answered the question didn't respond --
22 his answer did not respond to Mr. Townsend's

1 question.

2 BY MR. TOWNSEND:

3 Q. Do you present in your testimony in
4 this case any analysis regarding the benefits of
5 hedging that are realized by Choices For You
6 customers?

7 A. No.

8 Q. Did you do any variation of what the
9 hedging costs are associated with Peoples Gas and
10 North Shore Gas?

11 A. No.

12 Q. And, in fact, would you agree that
13 Peoples and North Shore couldn't even say what
14 those hedging costs are?

15 A. I hesitate to speak for Peoples and
16 North Shore, but I'm pretty sure they keep pretty
17 close track of their gas costs.

18 Q. Did you review any of the data
19 requests responses that the companies provided in
20 this case?

21 A. Well, as I noted in some place, that
22 I did look at the responses to some of your data

1 requests.

2 Q. Can you please hand Dr. Rearden
3 his -- I'm sorry -- the data request response IGS
4 3.03 to North Shore Gas Company and we'll mark
5 this as IGS Cross Exhibit 4.

6 MR. SKEY: Three.

7 MR. TOWNSEND: I'm sorry. Cross
8 Exhibit 3.

9 (Document marked as IGS Exhibit
10 No. 3 for identification.)

11 MR. TOWNSEND: For the record, your
12 Honor --

13 MR. FEELEY: Can you just hold on
14 one second?

15 MR. TOWNSEND: For the record, your
16 Honor's, this is a two-page document. The first
17 page is the North Shore response to IGS 3.03. The
18 second page is the Peoples Gas response to IGS
19 3.03.

20 BY MR. TOWNSEND:

21 Q. Have you had a chance to review
22 that?

1 A. Yes.

2 Q. Had you reviewed that as part of
3 your preparation for testifying today?

4 A. No.

5 Q. So you don't know whether or not
6 Peoples or North Shore separately track their
7 hedging costs, correct, or perhaps I just educated
8 you now?

9 MR. FEELEY: Objection. I don't
10 think there is any foundation for that question
11 here.

12 BY MR. TOWNSEND:

13 Q. Prior to reading this, did you know
14 whether or not Peoples or North Shore had
15 separately tracked those costs?

16 A. Prior to reading this, I did not
17 know how they would answer this question. I'm
18 having some problems with the data requests
19 understanding what it means because I don't know
20 what they mean by external costs.

21 Q. But --

22 A. These are the numbers that they

1 provide, but I assume that if these are their
2 answers, these are their answers.

3 Q. Did you --

4 A. Before looking at this, I didn't
5 know what the answers were.

6 Q. So you don't know whether Peoples
7 and North Shore allocate a portion of hedging
8 costs to sales customers and a portion to the
9 Choices For You customers, correct?

10 A. Well, I read their testimony and
11 they said they didn't.

12 Q. Now, even though that you've
13 testified you support accurate cost causation
14 principals, it's your position that the utilities
15 should make no attempt to segregate costs that
16 sales customers charge such as supply hedging,
17 correct?

18 A. I'm sorry. Where in my testimony
19 did I say that?

20 Q. Can you please hand Dr. Rearden his
21 response to IGS 1.12 and we'll mark this as Cross
22 Exhibit -- IGS Energy Cross Exhibit 4.

1 (Document marked as IGS Exhibit
2 No. 4 for identification.)

3 BY MR. TOWNSEND:

4 Q. In response to the question "Does
5 staff witness, Dr. David Rearden, agree that it is
6 inappropriate for Peoples and North Shore to make
7 no attempt to segregate costs that sales customers
8 cause such as supply hedging and recover those
9 costs from all customers," your answer was no.

10 A. That is correct. I think what I --
11 let me explain the answer. The word that I get
12 hung up on here is inappropriate. I don't know as
13 much about Peoples and North Shore's cost as they
14 do. If -- do I think that the Commission could
15 order Peoples Gas and North Shore to revise their
16 accounting systems to come up with -- to estimate
17 costs by sales and transportation customers? Yes,
18 I think that's within the Commission's
19 jurisdiction. I think I talked about that.

20 Do I think it's inappropriate
21 for them not to do it? No, because what we're
22 talking about is appropriate means not the same

1 thing as imprudent. So if the Commission is
2 interested enough in that information, I think
3 that it can order that, but if it's not that
4 interested in it, then I think they don't have to.
5 I don't think it's inappropriate.

6 Q. Would it be consistent with cost
7 causation principals for Peoples and North Shore
8 to segregate the costs that sales customers cause
9 and recover those costs from the sales customers?

10 A. Ask that again. I don't know
11 whether I'm supposed to say yes or no.

12 Q. Would it be consistent with cost
13 causation principals for the Commission to direct
14 Peoples and North Shore to segregate the costs
15 that its sales cause and recover those costs
16 solely from the sales customers?

17 A. Yes.

18 Q. You refer to Mr. Parisi's rebuttal
19 testimony at page six, lines 135 through 138 and
20 let me know when you've had a chance to review
21 that.

22 A. Okay. I'm there.

1 Q. In there, Mr. Parisi states that
2 Choices For You customers should not be billed for
3 administrative costs that they do not cause
4 related to bad debt, collection costs and other
5 services provided to other customers because they
6 do not cause the companies to incur those costs,
7 correct?

8 A. That's correct.

9 Q. Did you perform an independent
10 analysis of the cost components that Mr. Parisi
11 identified?

12 A. No.

13 Q. In fact, your rebuttal testimony to
14 Mr. Parisi on this issue consists of a single
15 question and answer at pages seven to eight of
16 your rebuttal testimony, correct?

17 A. Yes.

18 Q. And in your rebuttal testimony at
19 page eight, you say there are some costs that are
20 tracked and clearly caused by transportation
21 customers, right?

22 A. That's correct.

1 Q. And you weren't referring to these
2 costs; the bad debt, collection costs and the
3 other services that are provided to the other
4 customers, were you, when you made that statement?

5 A. No.

6 Q. Because those costs that are not
7 caused by transportation customers or Choices For
8 You customers are not separately tracked, correct?

9 A. Maybe I can just clear this up.
10 What that is referring to is the -- there is a
11 group of people that work just for transportation
12 suppliers that interact just with transportation
13 suppliers and those costs are assigned directly to
14 transporters. So that's what that sentence is
15 referring to.

16 Q. And are there other people inside
17 Peoples and North Shore that provide services to
18 sales customers?

19 A. Are there other people within North
20 Shore and Peoples that supply services just to
21 sales customers? I'm not sure.

22 Q. If there are people who provide

1 services just to sales customers, it would be
2 consistent with cost causation principals for
3 those costs for those employees to be recovered
4 solely from those sales customers, correct?

5 A. Yes.

6 Q. If those employees that are
7 providing the services just to the sales customers
8 are providing a de minimis service to the Choices
9 For You customers, is it your position that all of
10 those costs should be allocated equally amongst
11 both the Choices For You customers and the sales
12 customers?

13 A. To the extent they can be tracked,
14 they should be assigned to the customers that
15 caused them. There is -- when you do -- when you
16 do ratemaking, I'm sure that you've been told that
17 it's not an exact science. That you do the best
18 you have with the information you have, but in
19 general I will agree with your last statement.

20 Q. Okay. Let's switch gears and let's
21 talk about some of those administrative costs that
22 are currently only charged to the Choices For You

1 customers. Okay?

2 A. Okay.

3 Q. Mr. Parisi advocates that those
4 charges which are general administrative charges
5 should be spread across the entire customer base,
6 both Choices For You customers and sales
7 customers, right?

8 A. Yes.

9 Q. And his position is that customers
10 in the customer classes that are eligible for the
11 Choices For You Program should pay those
12 administrative charges, right?

13 A. I believe that's his position.

14 Q. And that assigning administrative
15 costs of a program to all customers who are
16 eligible for a program is an approach that has
17 been taken by the Commission in a number of other
18 instances, right?

19 A. I believe so.

20 Q. In fact, Peoples and North Shore
21 have specifically taken that approach regarding
22 their energy efficiency program, right?

1 A. Yes, I believe so. But I -- yes.

2 Q. I'll hand you what is going to be
3 marked as IGS Cross Exhibit 5, which is your
4 response to IGS 1.09.

5 (Document marked as IGS Exhibit
6 No. 5 for identification.)

7 BY MR. TOWNSEND:

8 Q. Let me know once you've had a chance
9 to review that. Have you had a chance to review
10 that?

11 A. Yes.

12 Q. You actually quote there from a
13 Peoples and North Shore witness who is advocating
14 for exactly the type of approach that we talked
15 about in terms of the context of energy efficiency
16 spreading the administrative cost of those
17 programs to all customers who are eligible for
18 that program, right?

19 A. That's correct.

20 Q. And the Commission's order approving
21 that would have been in Docket No. 07-0241 and
22 0242 combined, right?

1 A. Yes.

2 Q. If the witness could be given the
3 excerpt from that order, please, and this will be
4 marked as IGS Cross Exhibit 6.

5 (Document marked as IGS Exhibit
6 No. 6 for identification.)

7 BY MR. TOWNSEND:

8 Q. Is this excerpt the discussion of
9 the cost recovery methodology for Rider EEP for
10 Peoples and North Shore in 07-0241 and 0242
11 consolidated?

12 A. Yes.

13 Q. The Commission's conclusion is on
14 page 183, correct?

15 A. Yes, that's where it starts.

16 Q. Let me first point you to the bottom
17 of page 163 discussing the positions of the
18 parties. The paragraph that begins at the bottom
19 of 163 and goes to 164.

20 A. Yes.

21 Q. There it's noted that the utilities
22 we're arguing that many things work this way

1 including almost everything paid for by taxes.
2 Taxes pay for roads that many citizens will never
3 drive on and firefighters that most people
4 thankfully may never call.

5 Does this make the tax unfair?

6 Surely, staff should -- surely, staff would not
7 take the argument quite that far. Given all of
8 the positive effects of well-designed energy
9 efficiency programs, the utilities argue it should
10 not be considered so unfair as to not be worth
11 undertaking as long as the benefits are equally
12 available to all customers, right?

13 A. That's what it says.

14 Q. In the Commission conclusion at 183,
15 again, the Commission focused on the benefits to
16 all ratepayers in that third paragraph underneath
17 the merits of EEP the Commission states that the
18 Commission believes that the proposed programs
19 will make significant positive contributions to
20 the benefit of all ratepayers, right?

21 A. I'm sorry. What was that?

22 Q. Page 183.

1 A. Which paragraph?

2 Q. Fourth paragraph. That begins "the
3 Commission."

4 A. I see that, yes.

5 Q. The opportunity of each residential
6 and commercial customer to participate in the
7 competitive market is also available to all of
8 those customers in those customer classes,
9 correct?

10 A. For the ones that are eligible, yes.

11 Q. And this isn't an isolated example,
12 is it, in terms of the Commission endorsing the
13 idea of all eligible customers paying for a
14 program?

15 A. I don't know what you mean by
16 isolated.

17 Q. Let's take it from staff's
18 perspective. Has staff ever advocated for the
19 costs of a program to be spread amongst all
20 eligible customers?

21 A. I saw the thing from the 12 -- year
22 '12 docket. The peak time rebate.

1 Q. What you're referring to is the
2 Commonwealth Edison Company docket dealing with
3 the peak time rebate program ICC Docket 12-0484?

4 A. Yes, that's the new program. The
5 participation is unclear. So the decision that --
6 staff advocated for spreading costs over all
7 customers.

8 Q. Have you reviewed the direct
9 testimony of the ICC staff member Alicia Allen in
10 this case?

11 MR. FEELEY: Objection as to
12 relevance. That docket deals with a statute that
13 only applies to electric utilities. It has its
14 own standard for determining costs and cost
15 allocation. It's not relevant here in this
16 proceeding. This is a gas utility. We're dealing
17 with a different section of statute.

18 MR. TOWNSEND: Your Honor, he just
19 opened that door. He referred to that docket as
20 an example of where staff was advocating for all
21 eligible customers. He was the first one to bring
22 it up.

1 MR. FEELEY: He did not open the
2 door. I'm objecting to any line of questions
3 dealing with that because it's not relevant to the
4 issues in this docket. That testimony deals with
5 Section 16-108.6, which only applies to electric
6 utilities and it only applies to electric
7 utilities that have the Smart Grid ComEd and
8 Ameren. It doesn't apply here to Peoples Gas and
9 North Shore.

10 MR. TOWNSEND: We aren't saying that
11 specific docket applies to Peoples and North
12 Shore. Contrary to the implication of
13 Mr. Feeley's statement there, the statute does not
14 mandate that all of those costs be recovered from
15 all eligible customers.

16 What we're talking about is a
17 question of policy and a question of whether or
18 not the staff has had a consistent view of what
19 that policy should be and --

20 MR. FEELEY: Again --

21 MR. TOWNSEND: Please, Mr. Feeley,
22 I'll --

1 MR. FEELEY: I'll go when you're
2 finished.

3 MR. TOWNSEND: And the question is
4 when you have a program that benefits all
5 customers, is it appropriate to have all of those
6 customers pay for that program and in the docket
7 that we're referring to, and Mr. Feeley is free to
8 put as much context into that docket as he'd like,
9 we have a program there where he clearly
10 identified the customers that were going to take
11 service underneath the peak time rebate program
12 and instead of just charging those customers for
13 those costs, the staff is advocating that those
14 costs be spread amongst all customers.

15 So we are trying to indicate
16 that there is a situation where the staff
17 currently in a pending docket is advocating for
18 something that is on a policy level contrary to
19 the policy that they're advocating here.

20 MR. FEELEY: Are you finished?

21 MR. TOWNSEND: Thank you.

22 MR. FEELEY: Okay. As Mr. Townsend

1 mentioned, that docket is pending before the
2 Commission. He is not making a fair
3 representation to the staff's testimony in that
4 docket. Staff's testimony by that witness is
5 about eight pages long. He's consolidated it down
6 to one sentence.

7 MR. TOWNSEND: I'll introduce the
8 entire testimony, your Honor.

9 MR. FEELEY: No. Again, that deals
10 with a different section of the PUA that has
11 different standards that needed to be addressed by
12 those witnesses in that docket and it's not
13 relevant to the issues here.

14 MR. TOWNSEND: Your Honor, I'm happy
15 to provide you with a copy of that section of the
16 Public Utilities Act that you can review to see
17 whether or not there is anything here that would
18 suggest that all the costs from that program have
19 to be spread amongst all eligible customers. That
20 is a complete red herring. You have two programs
21 and it's just a question of how is it that you're
22 going to recover the costs. The statute doesn't

1 speak to that.

2 MR. FEELEY: The statute does speak
3 to it and they're two different statutory sections
4 here and that testimony was geared to that
5 statutory section that applies to Commonwealth
6 Edison Company and it doesn't apply here to
7 Peoples Gas and North Shore. It's not relevant to
8 this witness's testimony. He didn't testify in
9 that other docket.

10 MR. TOWNSEND: Your Honor, this is a
11 new argument that Mr. Feeley is making that it's a
12 separate witness. Now, this is the same party.
13 Staff can't take one position in one case and
14 another position in another case and just try to
15 defend itself by taking inconsistent positions and
16 say "You can't look at one versus the other just
17 because I have a different witness there."
18 Certainly, no other party would be able to do
19 that. That's not an appropriate objection.

20 MR. FEELEY: As you know, staff is
21 represented by different expert witnesses and they
22 each have their own opinion and Dr. Rearden was

1 not a witness in that case, it was someone else
2 and, again, it is a completely different statutory
3 section and, again, it's pending before the
4 Commission.

5 JUDGE DOLAN: I would say that -- I
6 guess at this point he just asks if he reviewed
7 the testimony, but I will tell you up front that
8 we're not going to accept testimony from that
9 docket into this docket. I will tell you that
10 before you even try to introduce it because I'm
11 not bringing in -- as I think both of us agree, we
12 don't like bringing in testimony from other
13 dockets, but this one is particularly troublesome
14 since it's not even related to a gas case.

15 Now, if you want to ask him if
16 he reviewed the testimony, that's fine, but we're
17 not going to allow him to read her testimony into
18 the record either.

19 MR. TOWNSEND: I'm sorry. I don't
20 want to misstep here. But can I ask him if he
21 reviewed a specific portion of that testimony?

22 JUDGE DOLAN: You can ask him.

1 MR. FEELEY: Can we start with the
2 foundation question did he even look at that
3 testimony when he prepared his testimony here?

4 MR. TOWNSEND: That's actually the
5 question that I asked that drew the objection, I
6 think.

7 JUDGE DOLAN: You asked him if he
8 knew any of staff's --

9 MR. TOWNSEND: I asked him if he
10 reviewed this testimony actually.

11 JUDGE DOLAN: Okay. It seemed like
12 you asked if he knew of any cases where staff --

13 MR. TOWNSEND: I did that first and
14 then I asked him specifically about this one.

15 JUDGE DOLAN: Okay.

16 BY MR. TOWNSEND:

17 Q. Dr. Rearden, have you reviewed the
18 testimony of staff member Alicia Allen in ICC
19 Docket 12-0484?

20 A. No.

21 Q. You are generally aware that staff
22 filed testimony in that case that suggested that

1 the administrative costs for the peak time rebate
2 program should be recovered from all eligible
3 customers, right?

4 MR. FEELEY: Objection. Relevance
5 for the reasons we just went through.

6 JUDGE DOLAN: I will overrule it.

7 BY THE WITNESS:

8 A. I'm aware that we have filed in that
9 docket and that, you know, generally I'm aware of
10 what the testimony said.

11 BY MR. TOWNSEND:

12 Q. And in your rebuttal testimony, you
13 didn't try to distinguish that case from this
14 case, did you?

15 A. No.

16 Q. Are you aware that the approach of
17 spreading all administrative costs to all eligible
18 customers was endorsed by staff in the Nicor Gas
19 proceeding Docket No. 08-0363?

20 A. Yes. Not endorsed, but approving of
21 the memorandum of understanding.

22 Q. Where should we look to understand

1 what staff's position was in that case?

2 A. The testimony.

3 Q. Do you know who the witness was in
4 that case?

5 A. Yes.

6 Q. Who was that?

7 A. David Sackett.

8 Q. Can you please hand the witness the
9 rebuttal testimony of David Sackett from Docket
10 No. 08-0363.

11 (Document marked as IGS Exhibit
12 No. 7 for identification.)

13 MR. FEELEY: Your Honor, objection.

14 Dr. Rearden did not testify in that case. This is
15 not relevant to his testimony here.

16 MR. TOWNSEND: This is being marked
17 as IGS Cross Exhibit 7 and the purpose for this
18 being introduced is to actually --

19 THE WITNESS: I'm sorry. What was
20 the ruling on that?

21 MR. TOWNSEND: I'm sorry. I --

22 JUDGE DOLAN: We're still discussing

1 that.

2 MR. TOWNSEND: We're arguing that
3 right now. The purpose of introducing this cross
4 exhibit is not solely for the purpose of
5 understanding staff's position in that case, but
6 also to impeach the testimony that we just
7 received from Dr. Rearden. Dr. Rearden said that
8 what the witness did in this case was endorse the
9 MOU and that's not what the witness did in that
10 case.

11 MR. FEELEY: No.

12 MR. TOWNSEND: The witness --

13 MR. FEELEY: He did not say that.
14 He said something about approve the MOU. He
15 didn't use the words endorse the MOU.

16 MR. TOWNSEND: We can go ahead --
17 either case. The position that Mr. Rearden said
18 that staff had in that case was that it was
19 endorsing/approving the MOU and actually that's
20 not what the testimony is from staff in that case.
21 So if you look at page 46 of Mr. Sackett's
22 testimony in that case beginning at line 995

1 concluding at 1009, that's the entirety of the
2 discussion there and as Dr. Rearden has suggested
3 it does indicate that all eligible customers
4 should be charged the administrative costs, but
5 it's not based upon staff endorsing an agreement,
6 but rather agreeing with the treatment of the
7 issue. The witness agreed that it is appropriate.
8 I agree with the MOU's treatment of this issue and
9 recommend that the Commission approve it.

10 MR. FEELEY: Your Honor, I have an
11 objection to this whole line of testimony here.
12 He is referring to the testimony of David Sackett
13 who commented on a memorandum of understanding
14 between certain parties, one of which I believe
15 was IGS and in that agreement it states that it
16 will not be used in any other administrative
17 proceeding before the Commission which is exactly
18 what Mr. Townsend is attempting to do here.

19 MR. TOWNSEND: First of all --

20 MR. FEELEY: The Commission can't
21 endorse one party breaking its agreement with
22 another party, that being Nicor and the other

1 party to it Dominion.

2 MR. TOWNSEND: First of all, staff
3 was not a party to that agreement.

4 MR. FEELEY: No.

5 MR. TOWNSEND: The agreement --
6 excuse me, Mr. Feeley.

7 JUDGE DOLAN: John, both of you
8 can't be speaking at the same time.

9 MR. TOWNSEND: In the first
10 instance, staff was not a signatory to the MOU so
11 staff doesn't have standing to try to enforce what
12 it perceives is a provision underneath that.

13 Secondly, the reason I can't
14 point to the section of the MOU he is talking
15 about is I'm not trying to use the MOU. I am
16 quite the contrary. Set aside the MOU. What
17 Mr. Sackett is saying in his testimony is that the
18 treatment of the issue, the question of how should
19 costs be allocated, should they just be allocated
20 to the choice customers or should they be spread
21 between the choice customers and the sales
22 customers, the treatment of that issue underneath

1 the terms of the MOU is appropriate.

2 So I don't intend to introduce
3 the MOU. All I want to do is focus on what
4 staff's position was with regard to the policy in
5 that case, the policy in that case that staff
6 endorsed in another gas proceeding with regards to
7 administrative costs associated with the choice
8 program. It's hard to get something lined up that
9 well. We'd like to get that piece of evidence
10 into the record here as to what staff's position
11 was in that case and clarify it because
12 Dr. Rearden misrepresented what he actually
13 testified to here.

14 MR. FEELEY: Are you done,
15 Mr. Townsend? Again, Mr. Rearden was not a
16 witness in that docket. It was another staff
17 witness. He can't impeach Mr. Rearden with the
18 testimony of another staff witness and, again, he
19 is trying to backdoor into this docket the MOU
20 which specifically states that it cannot be
21 introduced in another proceeding and the
22 Commission shouldn't be a part of one company

1 breaking its agreement with two other parties,
2 that being Nicor and Dominion.

3 MR. TOWNSEND: Your Honor's, this
4 witness has already testified about the way in
5 which the costs were allocated in the Nicor case.
6 This witness has already testified about what
7 staff's position was with regards to whether the
8 costs should be spread across all customers or
9 whether they should be charged to just those who
10 are in the choice program. This witness also
11 testified as to why it was that the staff reached
12 that conclusion and with regards to that last
13 point he misrepresented what staff's testimony was
14 and the best evidence that he misrepresented what
15 staff's testimony was is staff's testimony itself
16 and so this is being used for the purposes of
17 impeaching a statement that is already in the
18 record.

19 For that purpose, clearly, this
20 is relevant. For the purpose of being able to
21 look at what another gas utility is doing with the
22 administrative costs associated with its choice

1 programs, yes, this also is appropriate. An
2 expert witness from staff said that administrative
3 costs associated with choice programs
4 appropriately are spread amongst all those
5 customers who are eligible. That's what they said
6 before and that's relevant.

7 JUDGE DOLAN: Can't you get
8 Mr. Sackett because he is going to be the next
9 witness to testify about his position, about what
10 his position was --

11 MR. TOWNSEND: We certainly would be
12 happy --

13 JUDGE DOLAN: -- without having to
14 bring in this testimony because I don't want to
15 get our record clouded up with testimony from 15
16 different other hearings?

17 MR. TOWNSEND: We would be happy to
18 ask Mr. Sackett about that issue and, fortunately,
19 he is presented as a witness in this case. The
20 issue, though, that I'm afraid of is that we're
21 going to try -- staff is going to try to box us
22 out in saying that's beyond the scope of his

1 testimony in this case so you can't ask him about
2 what he said in another case because he doesn't
3 testify about this issue here.

4 So here we have one witness who
5 is testifying about this issue, a different
6 witness testified in a different case completely
7 opposite conclusions. Your Honor's, we will
8 stipulate to waiving the cross of Mr. Sackett if
9 we can just have his testimony from the prior case
10 introduced into the record here and whichever --
11 if you want just the cover page and that one page
12 included, we'd be happy to provide that to the
13 Commission. If you prefer to have the entire
14 testimony, we obviously have that available for
15 you as well.

16 MR. FEELEY: Staff objects to that.

17 JUDGE DOLAN: We're going to go off
18 the record for a second.

19 (Whereupon, a break was taken
20 after which the following
21 proceedings were had.)

22 JUDGE DOLAN: Back on the record.

1 We are going to overrule the objection to the
2 limited point, but we're going to allow you to
3 introduce the cover page and page 46 of this
4 testimony for the limited purpose of its
5 admission.

6 MR. TOWNSEND: Your Honor's, with
7 that, we'll go ahead and conclude this
8 cross-examination and move for the admission of
9 IGS Cross Exhibit 1, which is the response to IGS
10 data request 1.06 to staff, Exhibit 2, which is
11 the excerpt from -- Strike that. We won't move
12 that into evidence. Exhibit 3, Cross Exhibit 3,
13 which is the -- Strike that. I'm sorry. Cross
14 Exhibit 4, which is the IGS data requests
15 response. It's Dr. Rearden's response to IGS data
16 response 1.12. Cross Exhibit 5, which is Dr.
17 Rearden's response to IGS Cross Exhibit 1. -- IGS
18 data request 1.09, again, IGS Cross Exhibit 7,
19 which is the cover page and page 46 of
20 Mr. Sackett's testimony in ICC Docket 08-0363.

21 JUDGE DOLAN: Any objection?

22 MR. FEELEY: Just so I have this

1 correct. It's 1, 4, 5 and 7?

2 MR. SKEY: 1, 4, 5, and 7.

3 MR. TOWNSEND: 1, 4, 5 and 7.

4 MR. FEELEY: And you've already
5 ruled on 7?

6 JUDGE DOLAN: Yes.

7 MR. FEELEY: So there's no point to
8 object to that.

9 JUDGE DOLAN: If you want to object
10 for the record, that's fine, but yes.

11 MR. FEELEY: For the reasons
12 previously stated, staff objects to the admission
13 of No. 7, but understands you ruled on that. No
14 objection to 1, 4 and 5.

15 JUDGE DOLAN: All right. Subject to
16 that, IGS Energy Cross Exhibit's 1, 4, 5 and 7
17 will be admitted into the record subject to
18 staff's objection on 7.

19 MR. TOWNSEND: Thank you, your
20 Honor's.

21 JUDGE DOLAN: Do you want to go off
22 the record?

1 MS. CARDONI: Yes.

2 (Whereupon, a discussion was had

3 off the record.)

4 JUDGE DOLAN: Go back on the record.

5 MR. FEELEY: No redirect for

6 Dr. Rearden.

7 JUDGE DOLAN: Okay. Thank you,

8 Dr. Rearden, you're excused. Chris just indicated

9 while you were out of the room that they are going

10 to waive Mr. Sackett's testimony.

11 MS. CARDONI: Can we put his

12 testimony in via affidavit so he can leave now, is

13 that okay with you? David, you can go home.

14 David Sackett.

15 JUDGE DOLAN: Well, at least go back

16 to work. He heard that one already.

17 MR. TOWNSEND: Just in case Channel

18 2 is listening.

19 JUDGE DOLAN: Is Mr. Buxton

20 available?

21 MR. ALLEN: We'll have to go get

22 him.

1 JUDGE DOLAN: Off the record.

2 (Whereupon, a discussion was had

3 off the record.)

4 JUDGE DOLAN: We're ready to go back

5 on the record.

6 MS. LUCKEY: Staff now calls

7 Mr. Philliph Roy Buxton.

8 JUDGE DOLAN: Mr. Buxton, please

9 raise your right hand.

10 WHEREUPON:

11 PHILLIPH BUXTON

12 called as a witness herein, having been first duly

13 sworn, deposeth and saith as follows:

14 JUDGE DOLAN: Thank you.

15 D I R E C T E X A M I N A T I O N

16 BY MS. LUCKEY

17 Q. Mr. Buxton, please state your full

18 name and spell your last name, please?

19 A. My name is Philliph Roy Buxton. If

20 you don't mind, I'll spell the whole thing because

21 it's a little odd. P-H-I-L-L-I-P-H, Roy is R-O-Y,

22 and then Buxton is B-U-X-T-O-N.

1 Q. Who is your employer and what is
2 your business address?

3 A. I work for the Illinois Commerce
4 Commission, 527 East Capitol Avenue, Springfield
5 Illinois.

6 Q. And what is your position at the
7 Illinois Commerce Commission?

8 A. I am the energy engineering program
9 manager.

10 Q. Mr. Buxton, did you prepare written
11 exhibits for submittal in this proceeding?

12 A. Yes.

13 Q. Do you have before you a document
14 which has been marked for identification as ICC
15 Staff Exhibit 20.0, which consists of a cover
16 page, a table of consents, 31 pages of narrative
17 testimony, Attachments 0.01, 0.02 -- excuse me.
18 20.01, 20.02, 20.03 and 20.04 and is entitled
19 Rebuttal Testimony of Philliph Roy Buxton?

20 (Document marked as Staff
21 Exhibit No. 20.0 for
22 identification.)

1 BY THE WITNESS:

2 A. Yes.

3 BY MS. LUCKEY:

4 Q. Did you prepare that document for
5 presentation in this matter?

6 A. Yes.

7 Q. Do you have any corrections to make
8 to ICC Staff Exhibit 20.0?

9 A. No.

10 Q. Is the information contained in ICC
11 Staff Exhibit 20.0 true and correct to the best of
12 your knowledge?

13 A. Yes.

14 Q. If I were to ask you the same
15 questions set forth in that exhibit, would your
16 responses be the same today?

17 A. Yes.

18 MS. LUCKEY: Your Honor, I move for
19 admission into evidence ICC Staff Exhibit 20.0 and
20 the accompanying attachments and I would note for
21 the record this is the same document that was
22 filed via E-docket on January 17th, 2013.

1 JUDGE DOLAN: Any objections?
2 Hearing none, Staff Exhibit 20.0 along with
3 Attachment's 20.01 through 20.04 will be admitted
4 into the record.

5 MS. LUCKEY: Mr. Buxton is now
6 available for cross-examination.

7 JUDGE DOLAN: Proceed.

8 C R O S S E X A M I N A T I O N

9 BY MR. O'BRIEN

10 Q. Good afternoon, Mr. Buxton.

11 A. Hello.

12 Q. My name is Tim O'Brien and I'm with
13 the Attorney General's Office and I just have a
14 couple of very quick questions for you. In your
15 testimony, you recommended that the Commission use
16 its authority under Section 8-102 of the Public
17 Utilities Act to investigate Peoples Gas, their
18 Accelerated Main Replacement Project, correct?

19 A. Yes.

20 Q. And in your testimony you cite to --
21 cite to that Section 8-102 on pages 28 and 29?

22 A. Yes.

1 Q. And, specifically, I want to ask you
2 about what is on my version of this as line 628,
3 but it's the final paragraph where it reads "Any
4 audit or investigation authorized pursuant to this
5 section may be conducted by the Commission or if
6 the Commission is unable to adequately perform the
7 audit or investigation the Commission may arrange
8 for it to be conducted independent of the utility
9 and selected by the Commission," did I read that
10 properly?

11 A. Yes.

12 Q. In your -- one of your
13 recommendations, I suppose we can call it a sub
14 recommendation, is that an engineering consulting
15 firm should be hired to perform the investigation,
16 is that correct?

17 A. Yes.

18 Q. Is it your conclusion then based on
19 all this that staff does not have the resources to
20 perform this investigation itself?

21 A. That is true.

22 Q. Okay.

1 MR. O'BRIEN: Thank you. I have no
2 further questions for Mr. Buxton.

3 JUDGE DOLAN: Thank you.

4 C R O S S E X A M I N A T I O N

5 BY MS. SCARSELLA

6 Q. Good afternoon, Mr. Buxton. My name
7 is Carla Scarsella and I'm one of the attorneys
8 representing Peoples Gas and North Shore.

9 A. Hello.

10 Q. Hi. All my questions will be
11 focused, of course, on AMRP and AMRP stands for
12 Accelerated Main Replacement Program, is that
13 correct? Is that your understanding of that
14 acronym?

15 A. It is.

16 Q. So if I refer to AMRP, you'll know
17 that I'm referring to the Accelerated Main
18 Replacement Program?

19 A. Yes.

20 Q. In your rebuttal testimony, you
21 recommend that the Commission initiate a
22 Section 8-102 proceeding with respect to the AMRP

1 program, isn't that correct?

2 A. Yes.

3 Q. Now, your current position at the
4 Commission as you just stated is manager of the
5 engineering program in the safety and reliability
6 division?

7 A. Yes.

8 Q. As manager of the engineering
9 program, do you supervise engineers who work on
10 utility regulatory issues related to electric and
11 gas utilities?

12 A. Yes.

13 Q. And these utility regulatory issues
14 would include a utilities requests for general
15 rate increases, is that correct?

16 A. Yes.

17 Q. Now, I think we both can agree that
18 the AMRP program is a 20-year program, is that
19 correct?

20 A. That's what it is purported to be,
21 yes.

22 Q. Okay. You have no evidence

1 otherwise that that was the Commission's
2 understanding in the 2009 docket?

3 A. I do believe that to be the
4 Commission's understanding in the 2009 docket.

5 Q. Great.

6 MS. SCARSELLA: Mr. Allen, can you
7 hand Mr. Buxton Commission's order from Docket
8 09-0166, 0167 consolidated, which was the -- your
9 Honor, I don't intend to mark this as an exhibit,
10 but I can give you copies if you'd like.

11 BY MS. SCARSELLA:

12 Q. What Mr. Allen handed you is just an
13 excerpt from that order. If you agree with me,
14 the first page is the cover page, the next couple
15 of pages is a table of contents and then the
16 remaining portion of the order is Section's 8 and
17 9 of the Commission's order, which address AMRP
18 and then the staff recommendations of AMRP?

19 A. Yes, it looks like it starts on
20 Section 8 page 130.

21 Q. Very good. Can you turn to page 195
22 of that order?

1 A. Okay.

2 Q. Now, this is the Commission's
3 conclusion section of that order which begins on
4 actually page 192. So this is the portion of the
5 order that states the Commission's conclusion. On
6 page 195, if you look under the title Preparation
7 of Plan and Approval Thereof, do you see that on
8 the page?

9 A. Yes.

10 Q. The third sentence of that -- after
11 that first paragraph under that section states
12 that "The AMRP plan was only completed in time for
13 submission with Peoples Gas surrebuttal testimony
14 in that case," is that what that indicates?

15 MS. LUCKEY: I'm sorry. Did you say
16 the AMRP or the Jacobs plan? Is it just the plan
17 there refers to the AMRP plan?

18 MS. SCARSELLA: Right.

19 BY MS. SCARSELLA:

20 Q. It's the sentence "We recognize that
21 the plan was only completed in time for submission
22 with the company's surrebuttal testimony?"

1 A. That's what it says.

2 Q. All right. And will you agree with
3 me that the plan is referring to the AMRP plan?

4 A. Well --

5 Q. That was sponsored by Mr. Marano who
6 is employed by Jacobs Consultancy?

7 A. That would certainly be a reasonable
8 assumption, but I don't see anything in here that
9 says so. I mean, if you look to the sentence just
10 previous to that it refers to the Jacobs plan.

11 So --

12 Q. The very first sentence -- maybe we
13 should start with the first sentence instead of
14 jumping to the third. It says "We note that the
15 company acted prudently in engaging the services
16 of Jacobs Consultancy, Inc. to prepare an
17 implementation plan" and then the next sentence
18 says that "Neither staff nor the AG say or discuss
19 anything about the Jacobs plan"?

20 A. Okay. I can certainly agree that
21 the plan in the third sentence would appear to
22 make reference back to the Jacobs Consultancy,

1 Incorporated implementation plan.

2 Q. And we can agree that the
3 implementation plan, we're referring to the AMRP
4 implementation plan, is that correct?

5 A. Well, the only one that I know of,
6 but I can't be a hundred percent sure.

7 Q. Okay. So would you agree that
8 subject to check that Peoples Gas surrebuttal
9 testimony in dockets -- in the 2009 docket was
10 filed on August 17th, 2009?

11 A. I have no idea.

12 Q. Would you agree subject to check?

13 A. What is the date?

14 Q. August 17th, 2009.

15 A. Okay.

16 Q. And I have to comment. You did
17 something that I tell all my witnesses to do.
18 Never -- write down what you're agreeing to
19 subject to check so you can check it later. So
20 I'm glad you wrote down the date.

21 Do you also agree in the 2009
22 rate case that Mr. Salvatore Marano of Jacobs

1 Consultancy provided testimony on behalf of
2 Peoples Gas concerning AMRP?

3 A. Yes.

4 Q. And in his testimony in that
5 proceeding didn't Mr. Marano testify that
6 implementation of AMRP would begin in 2011?

7 A. As I sit here, I don't know.

8 MS. SCARSELLA: Mr. Allen, can you
9 hand Mr. Buxton the rebuttal testimony of
10 Salvatore Marano from the 2009 case.

11 BY THE WITNESS:

12 A. Are we done with the order you
13 handed me before?

14 BY MS. SCARSELLA:

15 Q. We might go back to it so don't put
16 it too far away.

17 A. All right.

18 Q. All right. Can you turn to page six
19 lines 124 to 125?

20 MS. LUCKEY: Carla, do you have
21 extra copies of that?

22 MS. SCARSELLA: I apologize. Your

1 Honor's, would you like a copy of that?

2 BY THE WITNESS:

3 A. Okay. What was the question?

4 BY MS. SCARSELLA:

5 Q. Do you agree that Mr. Marano
6 testified that implementation of AMRP would begin
7 in 2011? If you refer to lines 124 to 125.

8 A. Yes, I'm looking at it. Yes, I
9 think I can agree to that even though it does not
10 say AMRP in the sentence.

11 Q. Okay. Fair enough. Now, turning
12 back -- you can turn back to the Commission's
13 order. On the same page we were referring to
14 before, I believe it was page 195.

15 A. Okay.

16 Q. If you look at the last two
17 sentences of the second full paragraph of that
18 order, of that page, isn't it true that the
19 Commission states "Indeed, we note that Mr. Marano
20 testified that Jacobs and PGL have examined the
21 initial actions needed to begin the accelerated
22 program and carry it through the ramp up period.

1 He further explained that the tasks outlined in
2 the implementation plan are starting up."

3 Did I read that correctly.

4 A. Yes.

5 Q. Do you know what the ramp up period
6 that the Commission is referring to is?

7 A. I don't.

8 MS. SCARSELLA: Mr. Allen, can you
9 hand Mr. Buxton the direct testimony of Salvatore
10 Marano from the 2009 rate case?

11 BY MS. SCARSELLA:

12 Q. Can you refer to lines 1396 through
13 1397 of Mr. Marano's direct testimony? I'm sorry.
14 Wait. That's correct.

15 A. I see it.

16 Q. Do you agree that Mr. Marano
17 testified that there would be a five-year ramp up
18 period?

19 A. That's what it says.

20 Q. Do you have any evidence to differ
21 from that -- from what Mr. Marano says about the
22 AMRP plan?

1 A. No.

2 Q. Would you agree that Peoples Gas is
3 currently in the five-year ramp up period as
4 described by Mr. Marano with respect to AMRP?

5 A. It would be a reasonable assumption
6 since this is a '09 case and we're only in 2013.

7 Q. Thank you. Can you refer to -- you
8 can put that document down. Do you have the
9 surrebuttal -- the corrected surrebuttal of Philip
10 Hayes available? Otherwise, I believe Mr. Allen
11 has a copy.

12 A. I don't know about corrected, but
13 I've got the surrebuttal.

14 Q. That will work. I don't think the
15 line numbers changed.

16 A. All right.

17 Q. If you can turn to page six, lines
18 126 to 129. Would you agree that there are four
19 main system goals for AMRP?

20 A. I would agree that Mr. Hayes said
21 so.

22 Q. Do you have any evidence that states

1 otherwise that there are other main system goals
2 for AMRP?

3 A. No.

4 Q. So one of the main system goals, do
5 you agree, is retiring 1,870 miles of cast iron or
6 ductile iron main?

7 A. Well, again, I will certainly agree
8 that's what Mr. Hayes' testimony says.

9 Q. Again, you have no reason to
10 disagree otherwise?

11 A. No.

12 Q. Mr. Hayes also says a second main
13 system goal is upgrading approximately 300,000
14 service pipes?

15 A. That's what it says.

16 Q. What is a service pipe?

17 A. I'm not sure what you're asking me.
18 There are much smaller gas pipes that are taken
19 off of a gas main that head towards a house or a
20 business where they meet up with a meter and
21 possibly a gas regulator in order to provide gas
22 at some particular pressure, typically a very low

1 pressure, to the customer and that piece of pipe
2 between the gas main and the meter is the gas
3 service, is that the kind of answer you're looking
4 for?

5 Q. That's my understanding of it so I
6 think we're in agreement. So it's the service
7 pipe that starts at the main and brings gas to
8 whether it's a residence or a commercial building
9 into the meter?

10 A. Yes.

11 Q. All right. Excellent. A third main
12 system goal that Mr. Hayes says is to relocate gas
13 meters from inside to outside customer facilities,
14 is that correct?

15 A. That's what it says.

16 Q. And, finally, the fourth goal is
17 upgrade the gas distribution system from a low
18 pressure to a medium pressure system?

19 A. That's what it says.

20 Q. Now, you testified that after four
21 years after having proposed -- Peoples Gas
22 proposing AMRP little has been accomplished, is

1 that correct.

2 A. I think I did say that, yes.

3 Q. Can you refer to Mr. Hayes'
4 surrebuttal testimony page four line 78 to 79?

5 A. I have it.

6 Q. All right. You beat me to it.
7 Would you agree that at the end of 2009 1,870
8 miles of cast iron and ductile iron main needed to
9 be replaced?

10 A. Could you ask me that again?

11 Q. Certainly. I said it poorly so I'll
12 certainly repeat it. Let me see. I'll stick to
13 what I wrote. Isn't it true that at the end of
14 2009 there were 1,870 miles of main to be retired?

15 A. Yes, that's what it says.

16 Q. And, again, you have no other data
17 to show otherwise that the number is different?

18 A. I do not. I just can't claim to
19 have this as my own information because I'm
20 reading it off somebody else's testimony.

21 Q. I understand. If you can go to page
22 seven of Mr. Hayes' testimony, at the bottom there

1 is a chart, do you see that?

2 A. I do.

3 Q. All right. So would you agree with
4 me that this chart represents the miles -- the
5 first row of the chart indicates by year for each
6 column, the new mains that have been installed
7 since 2009, the next row is old mains that have
8 been retired, the miles restored, new service
9 pipes installed and new meter regulator sets
10 installed and on the next page is the high
11 pressure steel interstation main installed based
12 on miles?

13 A. You have described what the table
14 says, yes.

15 Q. Okay. So starting with the figure
16 1,870 miles and that is the mains to be replaced
17 at the end of 2009. And in 2010, do you agree
18 that 23 miles was retired of main?

19 A. That's what the table says, yes.

20 Q. So if we subtract 18 -- if we
21 subtracted 23 miles from 1,870, would you agree
22 that the remaining miles of main to be replaced at

1 the end of 2010 is 1,847 miles?

2 A. Yes.

3 Q. Now, at December 31st, 2010, do you
4 agree that 19 full calendar years remain to
5 complete this project by 2030?

6 A. Yes.

7 Q. So in that 19 year period, would you
8 agree subject to check that on average 97 miles of
9 main a year would need to be retired?

10 A. I haven't done the math, but that
11 sounds like it's got to be pretty close.

12 Q. So if you can refer back to the
13 chart under the 2011 column. Now, 2011 would you
14 agree was a partial construction year? AMRP
15 didn't begin construction until May of 2011?

16 A. I do agree that is true.

17 Q. So in that partial construction year
18 150 miles of main was installed and 24 miles of
19 main was retired, correct?

20 A. That's what it says.

21 Q. However, if the ramp up continued in
22 2012 in the next column, would you agree that 132

1 miles of main would need to be installed?

2 A. That's what it says.

3 Q. Now, do you agree that those mains
4 have actually been installed and are in the
5 ground?

6 A. I can't testify to that.

7 Q. Well, you testified that little has
8 been accomplished and Peoples Gas has not executed
9 the program correctly, but you can't testify as to
10 what is actually in the ground?

11 A. No, I didn't put it in the ground
12 and I wasn't there to see it.

13 Q. But you're opining on the
14 performance of Peoples Gas?

15 A. Based on the information that I
16 reviewed in this case, I offered an opinion. I'm
17 not trying to tell you that I can independently
18 express precisely how much pipe got put into the
19 ground because I can't do that.

20 Q. Do you have any evidence to indicate
21 otherwise that 132 miles of pipe was in the
22 ground?

1 A. No.

2 Q. So do you agree that the -- so
3 without any evidence indicating otherwise that 132
4 miles of main were installed, that the new main is
5 being used to provide service to Peoples Gas
6 customers or will be used to provide gas to
7 Peoples Gas customers once they're gassed up?

8 A. I would suppose that's true and if I
9 can just explain. I'm not trying to call anyone a
10 liar. I'm not trying to say that anything that is
11 represented in this table isn't it. I'm just
12 trying to tell you I didn't see it and I can't
13 testify to it.

14 Q. I completely understand. So you
15 would agree that the 132 miles of main is being
16 used to provide service to Peoples Gas customers
17 or will be used to provide service to Peoples Gas
18 customers once it's gassed up?

19 A. It's reasonable to assume that when
20 the services are finally cut over from the old
21 main to be retired to this new 132 miles of main
22 that has been installed that at that point it will

1 be providing service to customers.

2 Q. Thank you. Now, also in the table,
3 it indicates that in 2012 118 miles of main was
4 retired, is that correct?

5 A. Yes.

6 Q. Would you agree that that amount of
7 main retired in 2012 is more than the three
8 previous years combined?

9 A. Can you hold on just a second? I
10 want to turn this phone off so I won't be
11 bothered.

12 Q. Sir, no problem.

13 A. All right. Now, ask your question
14 again.

15 Q. Sure. Would you agree that the
16 amount of main retired in 2012 is more than the
17 three previous years combined?

18 A. Yes, I would.

19 Q. In fact, for the first full year of
20 construction, 2012, the amount of main retired
21 surpasses the yearly average of 97 miles that we
22 computed earlier, would you agree?

1 A. I agree that it surpasses. I don't
2 have any information myself to say that that was
3 the first full year of the production or whatever
4 you called it.

5 Q. Well, didn't we agree that
6 construction the first year, 2011, was only the
7 first partial year of construction because it
8 began in May of 2011?

9 A. That's true.

10 Q. So 2012 would be the first full
11 calendar year of construction?

12 A. I can agree to that.

13 Q. Now, another goal that we discussed
14 of AMRP was upgrading approximately 300,000
15 service pipes, correct?

16 A. Yes.

17 Q. Would you agree that approximately
18 this would be about 15,000 a year?

19 A. Yes.

20 Q. Now, if you can refer back to
21 Mr. Hayes' chart in 2011, 10,330 -- let me try
22 that again. Referring back to Mr. Hayes' chart.

1 In 2011, 10,330 new service pipes were installed,
2 correct?

3 A. Yes.

4 Q. And as Peoples Gas began ramping up
5 again in 2012, 13,289 service pipes were
6 installed, correct?

7 A. That is the number for 2012, yes.

8 Q. Now, again, would you agree that the
9 service pipes that were installed for 2012 is
10 either being used to provide service to Peoples
11 Gas customers or will be as soon as the main is
12 gassed up?

13 A. Yes.

14 Q. Now, if we go to the new meter
15 regulator line of that chart, do you agree that in
16 2011 14,004 sets, meter regulator sets, were
17 installed?

18 A. I'm sorry. I was still looking.
19 What was the number you said?

20 Q. 14,004.

21 A. Yes.

22 Q. All right. Again, as Peoples Gas is

1 ramping up AMRP, in 2012 it doubles that amount to
2 28,168 meter sets were installed, is that correct?

3 A. That's right.

4 Q. Now, referring to in your rebuttal
5 testimony you testified that Peoples Gas
6 encountered scheduling problems with the City of
7 Chicago's Office of Underground Coordination, is
8 that correct?

9 A. Yes, I testified that that was the
10 information that I got from Peoples, yes.

11 Q. Okay. And you also indicated that
12 Peoples Gas is encountering permitting problems
13 with the Chicago Department of Transportation and
14 locating issues with Digger?

15 A. Yes, I think that's right.

16 MS. LUCKEY: Ms. Scarsella, can you
17 point to a line?

18 MS. SCARSELLA: Sure. It's page 15
19 lines 345 to 347.

20 MS. LUCKEY: Thank you.

21

22 BY MS. SCARSELLA:

1 Q. If you want to refer to that,
2 Mr. Buxton, I'll wait.

3 A. Now, what were the lines on page 15?

4 Q. 345 to 347.

5 A. What did you say it said?

6 Q. First, I will go back to the first
7 question about those lines. At that section of
8 your rebuttal testimony, you indicate that Peoples
9 Gas is encountering schedule problems with the
10 City of Chicago's Office of Underground
11 Coordination, is that correct?

12 A. Well, except for your tense, yes,
13 because what I'm reporting here in my testimony is
14 that Peoples provided a response that led me to
15 believe that some things happened. So that would
16 be past tense, present or future tense like it was
17 in your question.

18 Q. Okay. So would it be fair to say
19 that Peoples Gas did encounter scheduling problems
20 at one point?

21 A. Yes.

22 Q. You also state that Peoples Gas also

1 encountered permitting problems with the Chicago
2 Department of Transportation and locating issues
3 with Digger?

4 A. Not on the lines you asked me about,
5 no.

6 Q. How about lines 348 through 350?

7 A. All right. I see that. I can agree
8 to that.

9 Q. 351 to 352 -- I take that back. On
10 lines 352 to 354, you finally state that Peoples
11 Gas is -- has encountered issues with the delivery
12 of construction materials?

13 A. Yes, and I took all of that
14 information from -- I believe from the data
15 requests response that immediately preceded all
16 these lines.

17 Q. All right. Well, let's talk about
18 that for a minute. If you go to lines 317 to 318
19 of your rebuttal. That's the first -- that's the
20 response to ENG 2.09 that you're quoting there?

21 A. Yes.

22 Q. And that first sentence says

1 "Examples of various other issues that AMRP
2 experienced in the first year were mainly
3 associated" and it goes on to describe the various
4 other issues.

5 What I want to ask you about is
6 what is your understanding of what first year
7 means?

8 A. I'm not sure how to answer that.

9 Q. You don't know what first year is
10 being referred to?

11 A. Not from this response, I don't. I
12 mean, there is nothing here that provides a year.

13 Q. Okay. Could it refer to the first
14 construction year which was 2011?

15 A. It might very well.

16 Q. Mr. Buxton, can you please identify
17 every instance in 2012 that there was a scheduling
18 issue with the City of Chicago's Office of
19 Underground Coordination?

20 A. I would have no knowledge of that.

21 Q. Would you be able to identify any
22 instance in 2012 where there was a permitting

1 problem with the Chicago Department of
2 Transportation?

3 A. I also have no knowledge of that.

4 Q. Again, in 2012, do you have -- do
5 you know of any instance where Peoples Gas
6 encountered a locating issue with Digger?

7 A. No, I wouldn't have any knowledge of
8 that.

9 Q. And, finally, for 2012 can you
10 identify any instance encountered with the
11 delivery of construction materials for Peoples Gas
12 suppliers?

13 A. No, I would have no knowledge of
14 that either.

15 Q. Now, can you turn to page 16 and 17
16 of your rebuttal testimony. Beginning at the
17 bottom of that page 16, you talk about a ComEd
18 program with their underground facilities, is that
19 correct?

20 A. Yes, I do.

21 Q. But you can't describe the details
22 pursuant to Section 5-108 of the Public Utilities

1 Act, is that correct?

2 A. That's true.

3 Q. Now, with respect to ComEd's
4 program, you stated that ComEd made impressive
5 progress and reported no delays caused by the City
6 of Chicago, is that correct?

7 A. Yes.

8 Q. Did you perform any analysis
9 comparing Peoples Gas AMRP in 2012 to ComEd's
10 program activities in 2012?

11 A. I guess the answer to that would be
12 no. I have a general idea of how the two relate,
13 but I can't claim to have performed any analysis.

14 Q. Did you contact the City of Chicago
15 Office of Underground Coordination regarding
16 ComEd's program activities in 2012?

17 A. I did not and I did not do that for
18 Peoples either.

19 Q. Is it correct that you didn't
20 contact the City of Chicago Department of
21 Transportation regarding ComEd or Peoples Gas's
22 program activities in 2012?

1 A. I did not do that.

2 Q. And the same could be said for
3 Digger as well?

4 A. Yes, the same could be said.

5 Q. Now, did the utilities file a rate
6 case in 2011? Did Peoples Gas/North Shore file a
7 rate case in 2011?

8 MS. LUCKEY: I'm not sure he
9 testified to that. Maybe you could ask him if he
10 was aware if he did.

11 BY MS. SCARSELLA:

12 Q. Are you aware of whether Peoples Gas
13 filed a rate case in 2011?

14 A. I am not aware that they filed one.

15 Q. Does Brett Seagle report to you?
16 Brett Seagle who was the engineering witness in
17 this case? Does he report to you as manager of
18 the -- as manager of the engineering program, does
19 Brett Seagle report to you?

20 A. Through his supervisor, he does,
21 yes.

22 Q. So you're not aware of whether he

1 filed testimony in that case?

2 A. I just don't have any memory of it,
3 the 2011 Peoples case. I'm not telling you there
4 was or wasn't one. I just don't recall that there
5 was.

6 MS. SCARSELLA: I have nothing
7 further, your Honor.

8 JUDGE DOLAN: Do you want a minute?

9 MS. LUCKEY: If we can have just a
10 moment to talk to our client.

11 JUDGE DOLAN: Off the record.

12 (Whereupon, a break was taken
13 after which the following
14 proceedings were had.)

15 MS. LUCKEY: Staff has no redirect
16 of Mr. Buxton.

17 JUDGE DOLAN: Okay. Thank you,
18 Mr. Buxton. You're excused then.

19 THE WITNESS: Thank you.

20 JUDGE DOLAN: Tomorrow we have six
21 hours and everybody is sticking to those numbers
22 pretty good?

1 MS. SCARSELLA: I think some of the
2 numbers at least for the utilities will come down.
3 I think Mr. Brosch is now at about an hour.

4 JUDGE DOLAN: Okay. That does make
5 a difference.

6 MS. SCARSELLA: It may be even less.

7 JUDGE DOLAN: Okay. We're whittling
8 down. Is everybody still okay starting at 10:00?
9 Okay. We'll be entered and continued until 10:00
10 a.m. tomorrow morning. Thank you.

11 MS. SCARSELLA: Your Honor, the
12 first two witnesses up tomorrow are the subject of
13 the motions to strike. I do -- should they be
14 reshuffled or will there be a ruling before then?

15 JUDGE DOLAN: That's what we were
16 just actually talking about. We're going to try
17 to probably be ready to make our rulings in the
18 morning. So we'll just do it right before if
19 that's acceptable to the parties?

20 MS. SCARSELLA: I have one minor
21 matter to clean up from today. The NS/PGL
22 Redirect Exhibit No. 2 from Mr. Hayes' testimony

1 cross examination, we have a copy now.

2 JUDGE DOLAN: Okay.

3 MS. SCARSELLA: We are only
4 submitting the written response to the data
5 request. The attachments were too voluminous to
6 provide and I believe the AG indicated they have
7 no recross on this response being admitted.

8 JUDGE DOLAN: Okay.

9 MS. SCARSELLA: So if I can provide
10 you a copy.

11 JUDGE DOLAN: All right. Then if
12 there is nothing else, we'll be entered and
13 continued until 10:00 a.m. tomorrow.

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